

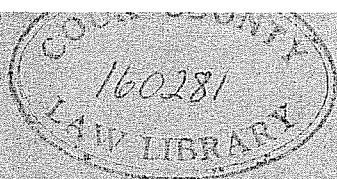
**REPORT OF THE
JANUARY 1970
GRAND JURY**

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

COOK CITY

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NOTE

Corrected Edition: This edition corrects certain printing errors contained in an earlier version and is intended to replace all outstanding copies of this Report.

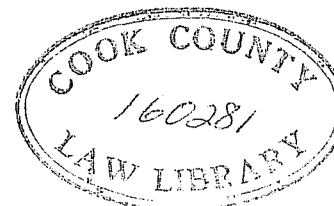
WASHINGTON, D.C., June 1, 1970.

Dist. Ct. Eastern Division

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INTRODUCTION

At 4:45 a.m., December 4, 1969, fourteen Chicago police officers assigned to the Cook County State's Attorney's Office, executed a search warrant for illegal weapons at 2337 West Monroe in a flat rented by members of the Black Panther Party. Nine people were in the apartment. Two were killed in the gunfire which broke out: Fred Hampton, the militant and controversial Chairman of the Black Panther Party of Illinois, and Mark Clark, a Panther official from Peoria. Four other occupants were wounded, but survived. Two police officers sustained minor injuries.

Public reaction was prompt and polarized. The State's Attorney's Office reported sketchily and then in detail that the officers were fired upon as they sought entry, that they returned the fire and secured the premises after an intense gun battle with the occupants. According to the officers' account, they had no knowledge that Fred Hampton was in the apartment, but did report that Hampton was found lying on a bed with an automatic pistol and a shotgun next to his body. The officers seized 19 weapons, including a stolen police shotgun, a sawed-off shotgun, various handguns and a large quantity of ammunition; by 7:30 a.m. the scene was deserted.

By noon Black Panther spokesmen claimed that Hampton and Clark were victims of a Chicago-style political assassination pursuant to an alleged official national policy of genocide. Newsmen, students, public officials, and neighborhood residents were given guided tours of the apartment. Panther guides claimed the physical evidence proved that the police did all the shooting.

The competing accounts were given equal and extensive coverage in all media. Responsible leaders, black and white, demanded impartial investigations; Negro congressmen announced their own investigation; a special "Blue Ribbon" Coroner's Inquest was scheduled; a citizens group headed by former Supreme Court Justice Arthur Goldberg was formed to investigate; the Chicago Black Patrolmen's League averred that the police account was untrue and promised to find and expose the facts; the Illinois Attorney General agreed to look into the matter; the Internal Inspections Division of the Chicago Police Department initiated an investigation. Letters, telegrams, delegations and editorials all called on the U.S. Department of Justice to initiate

an objective investigation to determine if there had been a violation of the civil rights of the apartment occupants.

On December 19, 1969, United States Attorney General John Mitchell appointed Assistant Attorney General Jerris Leonard and a special biracial team of experienced federal prosecutors to collect all the facts relating to the incident and present them to an inquisitorial federal Grand Jury.

This report contains the findings of the Grand Jury after hearing nearly 100 witnesses and considering over 130 exhibits,¹ including police records, photographs, moving pictures, transcripts of testimony before other bodies, voluminous investigative and scientific reports and reports of investigative interviews with over 100 potential witnesses who were not called.

The first part of this report consists of the detailed statement of the investigative approach used, the various factual disputes, the results of the FBI's ballistic and scientific examinations, and the results of other investigations. The second portion of the report contains a discussion of federal law as it applies to the facts as found by the Grand Jury. The final portion contains a discussion of the very serious law enforcement problems disclosed by the facts together with the Grand Jury's recommendations on possible solutions.

¹ Many are group exhibits consisting of as many as 200 individual items.

I. THE GRAND JURY'S INVESTIGATION AND FINDINGS

A. Background—*The Panthers and the Law in Chicago*

The National Black Panther Party was formed in Oakland, California in December 1966, as a ghetto-based organization of stridently militant blacks dedicated to upgrading the living conditions, pride, social and economic status of ghetto blacks by a direct challenge to American institutions and political systems. The concept and organization is that of a political party philosophically oriented toward Asian communism.² The Party's frequently published 10-point platform, in summary, demands social change by direct action, including force if necessary, to restructure the "system" to permit blacks to control their own status and values without dependence on or exploitation by the "white establishment." The program calls for land, bread, housing, education and employment; it also calls for community control of police and schools and such things as all black juries for black defendants³ (*Daily Defender* 8/23/69).

The organizational structure of the Party includes a national hierarchy of a chairman, deputies and various ministers of particular matters, i.e. defense, public affairs, welfare. Charters are issued by the National Party to state chapters, mostly oriented in big city slums and ghettos.

Two of the founders of the Black Panther Party, Eldridge Cleaver and Bobby Seale, have been indicted for serious felonies. Cleaver, under indictment for the attempted murder of a California policeman, fled to Cuba and then Algeria. Seale faces state charges for the kidnapping and torture killing of a party member and a federal charge of conspiracy to cross state lines to promote a riot at the 1968 Democratic Convention. Both have been widely quoted as espousing the violent overthrow of the "establishment" by revolutionary means.

Nationally, the Black Panther Party has only between 500 and 1,000 members.⁴ Locally, the FBI estimates 30-40 members in

² Tr. XII, pp. 72-75 (Tr. references are to volumes of the transcript of testimony before the Grand Jury).

³ Tr. XII, pp. 94-96.

⁴ Tr. XII, p. 92.

Chicago.⁵ However, the Party has some sympathizers, and considerable issue-oriented support from youthful ghetto residents. On occasion, it asserted membership exceeding 500 in Chicago (*Chicago Daily News* 1/25/69).

On November 4, 1968, the Illinois Chapter of the Black Panther Party was chartered. This Chapter, like the national organization, proclaimed itself to be violently anti-establishment with particular hostility for law enforcement agencies. The Party is also active in some social welfare programs in the Negro ghetto. In Chicago the Party operated a free breakfast program for children and undertook to establish a free medical clinic for ghetto residents. Another principal effort of the Panthers' organization, to which the Illinois Chapter was faithful, was a concentration on—almost an obsession with—firearms and military discipline. Indeed, repeated news reports of the Party's Maoist revolutionary posture and its continual emphasis on weaponry causes public apprehension and concern totally out of proportion to the miniscule number of members. Law enforcement agencies feeling this public concern, sensitive to the volatile and often violent ways of ghetto life and increasingly apprehensive over the Panthers' policy of violence against police, view the Panthers as a very real danger to social peace.

The most effective leader of the Illinois Chapter was Deputy Chairman Fred Hampton. Hampton, born in August 1948, grew up in Maywood, a Chicago suburb with a substantial black population. While still in his teens, Hampton became the youth leader of the Maywood NAACP. He was arrested several times in connection with racial demonstrations and incidents in Maywood. He joined the Illinois Chapter of the Panthers shortly after it was formed. Hampton was outspokenly militant and was quoted as advocating the Maoist principle that "political power flows from a gun" (*Daily Cardinal* 5/21/69).

Chicago newspapers reported frequently on the development of the Black Panther Party from December 1968 to December 1969. More than 240 news article on this organization, its leadership and its activities appeared in the local press.⁶ These articles covered organizational activities, leaders' public speeches, arrest of Black Panther Party members, alleged repression of the Party in raids by police and federal officers on Black Panther Party Headquarters, internecine feuds, proposed mergers with street gangs, alleged Communist financing and affiliation of the Black Panther Party, the killing and assault of police by Black Panther Party members and the killing and assault of Black

Panther Party members by police, the national news on conflicts between Black Panther Party members and police, and the expressed views of various law enforcement agencies as to the dangerous nature of the organization. During this period, feature stories and articles on the Black Panther Party activity appeared on 129 days in Chicago papers.⁷ Thus, the incident of December 4, 1969, occurred in a climate defined by frequent incidents of Chicago Police Department—Black Panther Party violence and threats.

A review of the press coverage of the many Police—Panther clashes in Chicago is useful in understanding the local tensions at the time of the December 4, 1969 raid, and the various reactions of the participants, the public and the press. The summary which follows is taken solely from press accounts and is designed to portray the public atmosphere as it developed. The Grand Jury has no judgment as to the accuracy of these accounts.

Reported conflict with the police commenced on December 18, 1968, when eleven Black Panther Party members and several Blackstone Rangers were arrested after police surveillance of a meeting between the groups. Several knives were confiscated. The arrests ensued after an alleged traffic violation by the Black Panther Party personnel leaving Blackstone Rangers Headquarters. The police related the meeting to an attempt by the Black Panther Party to form a coalition with the Blackstone Rangers (*New Crusader* 12/21/68). On January 4, 1969, the alleged coalition attempt was reported a failure (*New Crusader* 1/4/69). Hampton repudiated the alleged coalition in May 1969 (*New Crusader* 5/24/69).

Vigorous college campus and street gang recruiting by the Black Panther Party was reported (*Chicago Tribune* 1/24/69). Recruitment efforts by Hampton and Defense Minister Bobby Rush were characterized by vehement speeches denouncing all "establishment" authority, particularly the police. On January 25, the Black Panther Party claimed 500 members in Chicago, including members in each inner city high school. Police intelligence fixed membership at about 75 persons (*Chicago Daily News* 1/25/69).

On January 24, 1969, Hampton was arrested for allegedly inciting mob violence in Maywood at a July 1968 demonstration over acquisition of a large police van. He was arrested as he appeared to tape a local television show and was prevented from appearing. He was acquitted of this charge a month later (*Chicago Tribune* 1/26/69; *Chicago Daily News* 3/7/69).

⁵ Tr. XII, p. 76.

⁶ Exhibit 113A.

⁷ Exhibit 113A.

On April 2, 1969, Defense Minister Rush and two other Panthers were arrested after a shooting incident in Robbins, an all Negro Chicago suburb.⁸ Six persons were wounded in the incident which police said was a confrontation between Panthers and the Robbins branch of the Blackstone Rangers. Rush was reportedly arrested when he walked into the police station to use the phone wearing a loaded .45 automatic in a shoulder holster (*Chicago Tribune* 4/3/69). Both Panther and Ranger spokesmen denied the police story, and a Panther source indicated the police were spreading the lies to combat the good public image created when the Panthers inaugurated a free breakfast program for 200 children in the Better Boys Foundation, 1512 S. Pulaski (*Chicago Tribune* 4/3/69; *Chicago Daily News* 4/3/69).

On April 12, 1969, a federal agent posing as a gun dealer agreed to sell two submachine guns to members of the Party for \$500. Delivery was to be made in a specified area; some 75 police and federal officers converged there, trapped, and arrested the purchasers. Three persons identified as Panthers were subsequently indicted by a federal grand jury for conspiring to purchase illegal weapons. After a stormy bond reduction hearing on April 17, at which Panthers in the audience allegedly tried to intimidate a government witness and one of the defendants allegedly threatened an assistant U.S. Attorney, the defendants pleaded not guilty on April 26 (*Chicago Sun Times* 4/12/69; 4/26/69).

The press continued to report Hampton's denunciations of the Chicago Police Department for harassment of ghetto blacks and his threats that shooting would follow if police brutality in the ghetto did not cease (*Chicago Daily News* 4/18/69; *Chicago Sun Times* 4/18/69). Conversely, law enforcement authorities were frequently quoted as critical of any Panther contacts. Assistant State's Attorney Richard S. Jalovec disclosed to the *Chicago Tribune* that a Black Panther Party member who earlier had been convicted of beating a C.T.A. driver, had been hired as a security guard at Crane Junior College (*Chicago Tribune* 4/16/69).

On April 19, the *Daily Defender* quoted Hampton on police harassment, saying that oppression must stop "' . . . or we will start shooting'" (*Daily Defender* 4/19/69).

⁸ Robbins police officers interviewed commented upon Panther recruitment efforts:

"Not too long ago we knew there was a Panther recruiter in town . . . A group of young guys ganged up on him one night, beat him up pretty good, and sent him back where he came from.

"We came by a little later and couldn't get much information on the incident. You know, sometimes it's almost a good idea to look the other way'" (Exhibit 113, Vol. 1).

On April 23, the *Chicago American* reported that Panther efforts to infiltrate street gangs might have caused recent violent confrontations. Police sources were quoted as suggesting that the Panther infiltrations may have stirred up dormant rivalries such as an incident on April 21 when four gang members were wounded—two by police—in a South-side clash.

On April 29, five men, identified as Panther members were arrested and charged with the beating and torture of a Negro man and woman because the woman allegedly had failed to return a Panther gun equipped with an infra-red scope. Others were also implicated, including Illinois Party Chairman, Fred Hampton (*Chicago Tribune* 4/29/69; *Chicago Sun Times* 4/30/69). On June 10 it was announced that Hampton and 15 others had been indicted by the Cook County Grand Jury on kidnapping and weapons charges. That same day an elaborate simultaneous series of pre-dawn raids in Chicago, Summit and Maywood, with as many as 300 law enforcement officers involved,⁹ resulted in the arrest of three of the indictees. Three others, including Hampton, were already in jail. The Grand Jury investigation was directed by Assistant State's Attorney Richard S. Jalovec, chief of the State's Attorney's Special Prosecutions Unit.¹⁰ State's Attorney Hanrahan denied that the indictments were part of a nationwide crackdown on Panthers, saying the indictments were against individual acts, not those of the Party (*Chicago Daily News* 6/10/69).

Throughout the spring of 1969, there were repeated press reports indicating a potential alliance between the Panthers, the Young Lords (a militant Puerto Rican group), the Young Patriots (Appalachian whites) and the campus-based S.D.S. Police intelligence sources were reported as fearing the coalition of radicals could cause serious trouble in ghetto areas. Hampton was reported to be speaking to college groups. In response to a speech by Hampton at Wisconsin University, the commander of the Subversive Unit of the Police Intelligence Division explained the reason police keep a close watch on the Panthers: "'Considering their outspoken revolutionary aims, it's no small wonder the Chicago Police Department is interested in their activities. . . . If we did not take an interest, we would certainly not be doing our job for the community'" (*Chicago Today* 5/9/69; *Chicago Sun Times* 5/25/69).

During the same period, United States Senate Hearings were reported to the effect that the Black Panther Party exploits ghetto residents, and Hampton was quoted as saying that the Black Panther

⁹ Tr. XXV, pp. 160-161.

¹⁰ See pp. 27-28, *infra*.

Party must lead in "‘ . . . killing off the capitalist class’" (*Chicago Daily News* 5/19/69; *Daily Cardinal* 5/21/69; *Chicago Sun Times* 5/25/69).

Also in May, Hampton was sentenced to 2-5 years for participating in a robbery of an ice cream vendor. Appeal bond was denied when Hampton admitted being a revolutionary (*Chicago Sun Times* 5/27/69); the Black Liberation Alliance immediately pledged support for his appeal.

On June 4, FBI agents searched the Black Panther Party Headquarters at 2350 West Madison in an attempt to apprehend one George Sams for whom they had a warrant for interstate flight to avoid prosecution. Sams was wanted in Connecticut in connection with the torture murder of a Panther member. The raid was conducted shortly after daybreak with the participation of some 40 agents. Sams was not found at the headquarters, but evidence of his recent presence there was recovered. The federal agents seized at least 10 shotguns and rifles and arrested the eight persons present for harboring a fugitive (*Chicago Daily News* 6/4/69). (The Special Agent in Charge later explained to this Grand Jury that the search had been conducted without a shot being fired. Agents telephoned the headquarters to advise their purpose and the fact that the building was surrounded. Portable sound equipment was used to help talk the occupants out and one Panther leader was convinced to order the other occupants to surrender. Agents armed with tear gas were pre-positioned and would have used gas had it become necessary.)¹¹

Defense Minister Bobby Rush immediately denounced the FBI raid as planned repression by the power structure. Rush was quoted as claiming the agents did \$20,000 in damage, took \$3,000 from a cash box and threw large quantities of food for the free breakfast program on the floor. (*Daily Defender* 6/5/69). Chicago Police sources said two of the weapons seized by the FBI had been stolen (*Chicago Sun Times* 6/5/69). On the same day, the *Daily Defender* quoted Rush as saying he knew nothing of the guns reportedly seized by the FBI and in any event, if found, they would not have violated any federal laws. He claimed the raid was part of a conspiracy by the FBI and other facets of the power structure to slow down Panther activities in black communities. An S.D.S. spokesman appeared at a press conference with Rush and voiced his support of the Panthers in their struggle against repression. (*Daily Defender* 6/5/69). Upon news of the FBI raid, moderate Negro leaders spoke out against police harassment and in support of the Black Panther Party (*Chicago Daily News* 6/6/69).

¹¹ Tr. XII, pp. 104-114.

Charges were subsequently dismissed when federal officials declined to reveal the identity of the informant who supplied information (*Chicago Today* 6/21/69).

A few days later, Chicago Task Force Police stopped an overcrowded station wagon near Panther Headquarters because of alleged traffic violations—driving with obstructed view, loud muffler and failure to yield right of way on left turn. After a search revealed marijuana, a hypodermic needle and several quarts of chemicals suspected of being ingredients for an explosive, a small crowd gathered as all eleven occupants of the car were arrested, but there was no incident. Two of the arrestees had been arrested previously in the FBI raid. No weapons were found (*Chicago Today* 6/9/69; *Chicago Sun Times* 6/10/69).

Again, Panther spokesmen claimed the arrests were part of the law enforcement conspiracy against them:

The Panthers were stopped in their car by fascist pigs. They were ordered out, searched, and physically abused. The car was searched without a warrant. The pigs then planted marijuana in the car.

* * * * *

The pig press misled the public into believing that medical supplies that were in the car were chemicals for explosives. One sister was severely injured when the fascists pushed her to the ground and kicked her in the back. She was pregnant and now is threatening miscarriage in the maternity ward of Cook County Hospital (*The Black Panther* 6/21/69).

As previously described, on June 10, a Cook County Grand Jury indicted Hampton and 15 others on torture and kidnapping charges and early morning raids were coordinated by the State's Attorney's Police to attempt to arrest the indictees (*New Crusader* 6/14/69).

After this flurry of raids and arrests in spring and early summer, there were several commentaries and summaries published evaluating the possibility of planned and coordinated national programs by law enforcement agencies to wipe out the Panther Party (*Chicago Daily News* 6/11/69; *Chicago Sun Times* 7/4/69). During the same period there was some indication that the Panther militancy was mellowing. An official of the Chicago Police Gang Intelligence Unit testified before a Senate Committee that in recent months the Chicago Party had gone in for the "soft sell." He attributed this to a program of forming coalitions with other youth groups. He also said the Panther membership in Chicago had dwindled to 13 persons (*Chicago Today* 7/1/69; *Chicago Sun Times* 7/1/69). However, on July 15, FBI

Director J. Edgar Hoover, in his annual report, cited the frequent Panther clashes with police and their revolutionary ideology and classed them, long with the S.D.S. as the core of the "New Left." The national Panther Party, he said, is "... The greatest threat to the internal security of the country" (*Chicago Today* 7/15/69).

Violence continued to flare in Chicago; on July 16, 1969, two policemen and two Black Panther Party members were involved in a shooting in which the two police officers were wounded. Neither of the two Black Panther Party members were wounded; the pistol used to shoot both the officers had been stolen from a policeman in 1966 (*Chicago Today* 7/16/69).

This was shortly followed by a major incident at Black Panther Party Headquarters. As reported on July 31, 1969, five police officers and three Black Panther Party members were wounded in a gunfight between Black Panther Party members and the police. The gunfight commenced when the police officers on routine patrol were allegedly fired upon by gunmen in the Panther offices at 2350 West Madison Street. A gun battle ensued resulting in the wounding of the five officers and the three Black Panther Party members. Numerous guns were seized at the Black Panther Party Headquarters at this time. This incident was the occasion for recapitulation by the newspapers of several prior incidents, and for claims of repression by the Black Panther Party (*Chicago Daily News* 7/31/69).

Less than three days after this incident, the U.S. Department of Justice was locally reported to have launched a special Criminal Division task force to investigate the Black Panther Party (*Chicago Sun Times* 8/2/69). This announcement was the occasion for further charges of repression by local Black Panther Party officials (*Chicago Today* 8/24/69).

Hampton was released on bond on August 15, 1969 (*Chicago Sun Times* 8/15/69) and immediately was quoted as saying that the police would be shot by the Panthers if they continued their repressive tactics. (*Daily Defender* 8/23/69).

In late September, the Black Panther Party participated in demonstrations regarding the Chicago Conspiracy trial. Although a Chicago Police Department spokesman commented that "... the Panther organization is one of the most dangerous in the nation," the same article reported a Panther official as saying the Party was discouraging violence and guns which had been an early phase of the "Panther mystique." The goals now, he said, were to expand the free breakfast and employment programs and then campaign for community control of police (*Chicago Sun Times* 9/26/69).

However, on October 4, 1969, another shooting incident occurred at Black Panther Party Headquarters when a sniper was reported to have opened fire on police from the roof of the headquarters at 2350 West Madison (*Chicago Today* 10/4/69). Police arrested seven Black Panther Party members, and one officer was injured by debris from a ricocheted bullet. The incident was followed by charges of repression by the Panther Party and a Black Panther Party spokesman alleged that the police officers had poured gasoline on the premises and set fire to them after making arrests. A fire department official attributed the blaze to a stray shot having hit a stack of newspapers (*Chicago Daily News* 10/4/69).

A rally protesting a conspiracy trial was called by the Panther Party for October 7, 1969. Although it was peaceful, Bobby Rush was reported as charging the police with committing murder on the Westside (*Chicago Today* 10/7/69).

On October 10, a nineteen year old black, Mike Soto, was killed during police investigation of a reported Westside robbery. Some disorder broke out in the area and ten police and a 12 year old girl were wounded. Five days earlier Soto's younger brother had also been killed in an incident with police. At a hearing held by seven black Illinois legislators, Hampton, claiming Soto had been a Panther supporter, used the occasion to complain about "pig brutality" and repression. The legislators reportedly reached no conclusions on the merits (*Chicago Today* 10/28/69).

On November 11, 1969, attempted murder charges were dropped against 6 of the 7 members of the Black Panther Party members who had been arrested in the October 4 incident in which a sniper allegedly fired at police. Prosecutors failed to produce evidence linking the six with the shooting. Resisting arrest charges were continued (*Chicago Sun Times* 11/11/69).

On November 13, 1969, Chicago Police officers Gilhooly and Rappaport and Panther member Spurgeon Winters were killed in a gun battle. Another Panther, Lance S. Bell, was wounded and six other policemen were injured in the course of the incident. Police had responded to a 3 a.m. call to 5801 S. Calumet after a lady advised that her husband had been threatened and that there were men with guns in the area. When the squad car arrived on the scene, it was fired upon by snipers concealed in a vacant building; two police cars were destroyed by gunfire and approximately 50 police ultimately participated in the action. Rappaport was allegedly killed by a Black Panther who approached him when he had been wounded and shot him in the head with a shotgun. A shotgun, a carbine and a substantial

quantity of weapons were found in the vacant building (*Chicago Daily News* 11/13/69).

The deaths of Gilhooly and Rappaport brought to seven the total number of Chicago policemen slain in the line of duty during the year 1969. This incident was followed by many newspaper articles about Panther violence in the city, and a great many police officers were seriously concerned for their safety thereafter (*Chicago Today* 11/14/69).

Accordingly, during the year preceding December 4, 1969, there were several incidents of armed violence between members of the Illinois Chapter of the Panthers and law enforcement agencies in Chicago. As a result of these incidents, two police and one Panther were killed; fourteen police and four Panthers were wounded or injured; and there had been over sixty arrests of Panthers for violations ranging from attempted murder and kidnapping to minor traffic violations.

The pattern had become familiar. Because of the Panthers' well-publicized reputation as violence-prone revolutionaries with a particular hostility for police, law enforcement agencies kept them under tight surveillance and were especially alert for Panther crimes. For their part, the Panthers could be counted on to emphasize their social improvement programs and to charge publicly that any law enforcement activity directed at a member or a sympathizer was part of a conspiracy of repression. And Chicago's competitive news media would report every charge and countercharge in meticulous detail.

B. Events Preceding Federal Grand Jury Investigation

Between the time of this incident on December 4, 1969, and the impaneling of this Grand Jury on January 5, 1970, the air was predictably full of charges and countercharges concerning what happened. A description of the spiraling escalation of public explanations, disputes, versions and commentary is instructive in understanding the way the Grand Jury investigation proceeded and serves to give useful background for some of the factual problems it found.¹²

According to the initial account by the State's Attorney's Office, Assistant State's Attorney Richard S. Jalovec and Sgt. Daniel Groth, of the Special Prosecutions Unit, acting on information supplied by an informant, obtained a search warrant for the premises to look for a cache of Black Panther weapons. After announcing their office and seeking entry, the officers were fired upon. They returned the fire, several times pausing to call for surrender. The occupants shouted, "Shoot it out," continued to fire and an intensive shoot-out ensued. Fred Hampton was found dead in a back (south)¹³ bedroom from which gunfire had been seen, and Mark Clark was found in the living room. Nineteen weapons and large stores of ammunition were seized and the survivors were charged with attempted murder. Officers Ciszewski and Carmody, interviewed at a local hospital, gave a vivid account of how they were wounded by gunfire after they announced their office at the rear door (*Chicago Today* 12/4/69).¹⁴

This account was immediately challenged by Black Panther Party Defense Minister Bobby Rush. Under the headline "Pal Claims Panther Chief Was Murdered in Bed," a reporter described a tour of the unguarded premises conducted by Rush showing bullet holes "... in the spread and mattress of Hampton's blood spattered bedroom." Rush was quoted as charging, "Hampton was murdered in bed while he slept. Since he was a light sleeper, some pig [policeman] must have come in the back door and murdered him with a silencer" (*Chicago Today* 12/4/69).

¹² Again, the descriptions in this section are taken solely from newspaper accounts, except where otherwise indicated.

¹³ See plat attached.

¹⁴ Both officers acknowledged that this initial account was inaccurate (Tr. XXVII, p. 69; Tr. XXVI, pp. 207-208).

The basic controversy continued to receive extensive coverage in every media. On December 7, defense attorney Francis Andrew was quoted as saying a private autopsy showed that Hampton was "murdered while he was asleep" and Renualt Robinson, head of the Afro-American Patrolmen's League, reportedly said after touring the site that it appeared the men were killed "for no reason in a police 'set up'" (*Chicago Sun Times* 12/7/69). By December 8, Mayor Chabala of suburban Maywood, where Hampton had grown up, announced that three of the Village Trustees and seven of the nine man Human Relations Commission had issued a statement demanding that State Attorney General Scott seek murder indictments against the officers for a "blatant act of legitimized murder." These charges were based on evidence indicating police did all the shooting (*Chicago Sun Times* 12/8/69).

On December 8, State's Attorney Hanrahan, at a news conference, restated the basic police version, saying that a more detailed statement would be improper in view of criminal charges pending against survivors. "We were then [after the raid] and are still convinced that our officers used good judgment, considerable restraint, and professional discipline" (*Chicago Tribune* 12/9/69).

Mr. Hanrahan's statement had little effect on the burgeoning controversy. On the same day the above article appeared, another paper was reporting that nine Democratic Congressmen had requested the National Commission on the Causes and Prevention of Violence to investigate the matter. They asked the President to extend the Commission for this purpose and in a letter to the Commission reportedly set out the basis for their concern: "... there were indications that Hampton was killed while still in bed, and that a private autopsy on his body indicates that he was in a reclining position when the bullets entered and left the body." This article also quoted Assistant State's Attorney Jalovec as rejecting any possibility of using lie detector tests to resolve the disputes: "We don't put either suspects or policemen on the polygraph. It is not done" (*Chicago Today* 12/9/69).

On December 10, it was reported that the police Internal Inspections Division, charged with looking into allegations of police misconduct, would not investigate because, according to Director Harry Ervanian, "The IID has no jurisdiction in a case handled by the state's attorney's office." State's Attorney Hanrahan was quoted as expressing surprise over the exemption of his men (*Chicago Sun Times* 12/10/69).

The following day, however, Police Superintendent Conlisk announced that the Internal Inspections Division had begun an investi-

gation. Director Ervanian explained that all background information would be reviewed including "... arrest records from the raid, all physical evidence, statements from witnesses, and photographs of the apartment." He reportedly said it was too early to tell whether it would be necessary to require the officers to take lie detector tests (*Chicago Today* 12/11/69).

On December 10, a major escalation of the intensive news coverage began when the *Chicago Daily News* published an account provided by Black Panther defense attorneys headlined "Panther Story of Killings." In pertinent part the story set forth the following:

There was a knock on the front door of the apartment at 4:40 a.m. Thursday. The occupants asked, 'Who is it?' They received a brief reply. The occupants again asked, 'Who?'

After a short delay, Mark Clark, 22, of Peoria, a Downstate Panther leader, went to the door just as the plainclothes policemen forced their way in.

Without warning the detective began firing toward mattresses near the southeast corner of the living room of the apartment. Clark was killed in the volley.

There was no return fire and apparently no shotgun blast at police from any of the Panthers before the police began shooting.

Two of the apartment's occupants were in a back bedroom trying to awaken Fred Hampton, 21, Illinois Black Panther Party chairman. Just then another team of police raiders barged through the rear (kitchen) door.

The police came through the kitchen and into the dining area leading to Hampton's bedroom. The two Panthers in Hampton's room leaped into a corner where police could not see them.

They were in the room when police fired the shots that apparently killed Hampton while he was still on his bed.

The nine defense attorneys for the Panthers said they would not release specifics or more detailed statements from the seven survivors so as not to compromise their case before it comes to trial.

The attorneys said they hope not only to win acquittal for the seven arrested Panthers, but to file civil and criminal charges against the police raiders.

They said they would seek to charge State's Atty. Edward V. Hanrahan and the 14 Police raiders with murder.

The nine man defense team also announced the three key points of defense:

Testimony by a nationally respected ballistics expert that the pattern of shots in the apartment shows cool and calculated fire by police and no return fire by the Panthers.

Testimony by the surviving Panthers that police burst into the apartment as the Panthers were sleeping and carried out a plan to kill Hampton and Clark.

The conflict between findings of an independent autopsy and the official findings of Coroner Andrew J. Toman.

The following day's issue of the *Chicago Tribune* published an exclusive detailed account given by the officers. "State's Atty. Edward V. Hanrahan made the policemen available for interviews [to] refute what he termed an orgy of sensationalism in the press and on television. . . ." The exclusive *Tribune* story also contained photographs supplied by Mr. Hanrahan and his top assistants, Messrs. Jalovec and Boyle, ". . . which they said conclusively proved the Panthers opened the battle by firing a shotgun blast thru the apartment door."

In this story, the leader of the raid, Sgt. Daniel Groth, said that he and Assistant State's Attorney Jalovec had both received confidential information on December 2, that a cache of weapons was in the apartment. "According to the informants, at least three shotguns had been observed in the flat. Neither, however, made any mention of Hampton's or Clark's frequenting the apartment, Sgt. Groth said."

At 4:45 p.m., on December 3, according to the story, ". . . Jalovec obtained a search warrant from Judge Robert Collins of Criminal Court, citing the facts obtained from the informants."

In the story, Sgt. Groth told of planning the raid and selecting the early morning hours to avoid an incident and to provide safety for his men and neighbors. Groth's account of the way the shooting started was the most detailed one to date:

Just shortly before he arrived at the building, Sgt. Groth said that he radioed from the Chicago police department undercover squad he was driving, asking that the squad operator dispatch marked cars from the Wood street district to the front and rear exits of the building.

"I told them we were about to attempt to serve a warrant," Groth said.

Once at the building, Groth ascended the front staircase or the exterior with Davis on his left. Behind them were Gorman, Jones, and Hughes. The men entered a small hallway con-

taining two doors, one leading to the 2d floor and the other to the Panther apartment.

Positioning themselves to either side of the apartment door, Sgt. Groth said he reached over and first rapped firmly with his left hand. When there was no response, he pounded again, but this time with his revolver butt.

"I heard a voice inside—a male voice—call out, "'Who's there?'," Groth said. "I replied 'This is the police. I have a warrant to search the premises.'"

Again, there was no response, but Groth said he could hear movement inside. Again he said he pounded on the door, shouting, "Police! Open Up!"

"Just a minute," Groth said the male voice replied.

Suspicious of the delay, Groth said he ordered Davis to kick the door open. Davis kicked and the door slammed open to reveal a small ante-room with another door leading to the apartment's living room. That was shut.

Then suddenly, as the two policemen entered the ante-room they said a shotgun blast was fired thru the closed living room door, a charge which later proved to have been a solid rifle load deer slug fired from a 12 gauge shotgun.

The slug pierced the door, ripping splinters from the outside of the door as it exited and narrowly missed the two policemen. Photographs of this door were furnished THE TRIBUNE by Hanrahan as evidence that the Panthers inside the flat fired the opening shot at his men.

Davis, who at this moment was just ahead of Sgt. Groth, plunged toward the door, smashing it open with his shoulders as he dived into the living room and landed on a mattress just to the left of the center of the room.

"I saw a woman half lying and half sitting upright on a bed in a far corner of the room trying to pump another shell into a shotgun she held jammed against her groin," Davis said. "She was about eight feet away."

"In that moment, the woman fired again, the flash of her weapon illuminating her face for Sgt. Groth who was still at the doorway of the room.

"I figured Davis had been hit when I saw him go down," Groth said. That second shotgun round went right past me as I hugged the door jamb and narrowly missed hitting Hughes who was behind me. I fired two shots at her."

Officer James Davis was quoted at length with his account of how he wounded the woman on the couch and fatally shot Mark Clark. After he had fired one shot from his carbine at the woman, the account continues:

"She slumped back against the wall with that shotgun still in her hands and I spun away and half turned, just in time to spot a guy sitting in a chair with a shotgun in his hands," Davis said. "He was directly behind me, hidden behind the door I'd just broken open. Thank God, Groth fired those shots at the woman. The flash of his revolver spotted the guy for me.

"I don't know for sure if he ever got a shot in at me or not. I fired twice and hit him. He stood up and I jumped up, too, struggling with him until he fell. Then I fell across his body."

This gunman was identified after the battle as Clark, 22, a Panther leader from Peoria.

According to the story, Officers Gorman and Jones then entered the room and recovered some Panther weapons. Davis reported he looked down a hallway going to the rear of the flat and saw a man duck in and out of the rear bedroom with a shotgun.

"By then, the guys had broken down the kitchen door," Davis said. "I saw Ciszewski in the kitchen behind the gunman and hollered for him to duck as the man fired at least one round into the kitchen. Ciszewski ducked and the shot missed.

"Hold your fire," Sgt. Groth said he ordered his men at this point. "Give them a chance to come out!" This was the first of five such orders Groth said he gave during the fierce fire fight.

"I had men in both the front and rear of the apartment," he said. "I didn't want anyone getting hit in crossfire. But the words were barely out of my mouth before there was the whomp of a shotgun blast from the front bedroom, directly down the hall from the living room.

"They were firing blind because they didn't know where we were, so the charge slammed into a bathroom door almost directly across the hall."

Hanrahan also produced photographs of the inside of the bathroom door, showing how shotgun pellets had slammed thru the wood. The prosecutor said that ballistics experts would testify during any court proceedings against the seven Panthers who survived the battle that the shotgun blast he claims opened the battle had in fact been fired from inside the apartment thru the door at police in the outer hallway.

In this recital, Officer Jones reported seeing a hand reach out of the rear (Hampton) bedroom and fire a shot "... with a revolver or automatic pistol ..." at the kitchen where other officers were located. The detailed account by the officers concluded by describing how the remainder of the apartment was secured:

"It was just about then," Sgt. Groth said, "That I heard a voice call out from the front bedroom, 'Shoot it out!' This was followed by two flashes from the same room I believe were from a shotgun."

At this point, police resumed firing and then minutes later, or perhaps only seconds, Groth said, he again ordered his men to cease fire and again called out to the Panthers, "Come out with your hands up!"

At the rear of the apartment, Detective[Detective] Carmody jumped over a wooden door that formed a barricade between the kitchen and dining room as the Panther fire continued. Gorman covered him with submachine gun fire from the living room which he fired thru the connecting wall of the living room and front bedroom and down the hallway.

Carmody fired one round from his .38 caliber revolver as he plunged past the rear bedroom doorway to shelter against a far wall of the dining room.

Again, Sgt. Groth called out for surrender and a cease fire and this time, from the rear bedroom, Harold Bell, 23, of Rockford, emerged with his hands in the air. Broderick and Ciszewski, who by then had also jumped over the barricade into the dining room, grabbed Bell and took him to the kitchen where other detectives held him.

But again, gunfire directed at police from the front bedroom broke out and Broderick and Ciszewski fired into both bedrooms from their vantage point in the dining room.

Sgt. Groth called another cease fire and ordered the Panthers to surrender, he said. This time, a voice called from the rear bedroom, "We're coming out. Don't shoot. We've got an injured man back here."

The[n] Louis Truelock, 39, of 1900 Jackson blvd., walked out with his hands up, accompanied by Miss Deborah Johnson, 18, of 2337 Monroe st. They, too, were hustled into the kitchen.

Carmody ran into the rear bedroom to find a man, later identified as Hampton, lying face down on the bed with his head facing the bedroom door thru which repeated gunfire had been directed at police in the kitchen.

"He was lying with his arms hanging over the foot of the bed," Carmody said. "On the floor at his right hand was a .45 caliber automatic and at his left a shotgun. I could see he'd been hit, but I didn't know if he was alive or dead. All I knew was that that room was full of shotguns and rifles and ammo.

"So I grabbed him by a wrist and dragged him into the dining room, away from all those guns."

A moment later, as Ciszewski was throwing various weapons out of the back bedroom, he was wounded in his left calf, presumably by a slug fired thru the wall from the front [front] bedroom directly adjacent. He dived for safety in the kitchen.

Meanwhile, while those in the rear of the flat were surrendering, Sgt. Groth again ordered a cease fire.

"I was virtually pleading with those in the front bedroom to come out," he said. "But again they fired so Broderick fired a shotgun five times into that room from the rear of the hallway. And I kept yelling for them to come out, but there was no response."

Gorman approached the front bedroom door with his sub-machine gun in his hand.

"I slammed thru that doorway, firing a burst into an open closet I spotted out of the corner of my eye directly to the right inside the door," Gorman said. "I saw two beds with the forms of two people rising between them. One had what looked like a shotgun in his hands he was trying to raise clear of the bed.

"As he started to aim, I fired and the gun fell as he did. The second form kept rising in those few seconds and I fired again after I saw something that looked like a hand gun in the person's hand."

The first person wounded by Gorman proved to be Blair Anderson, 18, of 6943 Justine st. The shotgun he was holding was identified as one stolen from a Chicago police department squad last April 6 in the Chicago Avenue police district.

Examination of the weapon showed that a .45 caliber police bullet during the gun battle had penetrated the barrel of the shotgun just a few inches above the breach, jamming it with a live round in the chamber.

The second person wounded by Gorman was Miss Verlina Brewer, 17, of 125 W. 107th st.

As Carmody plunged into the room to join Gorman, Miss Brewer and Anderson cried out, "We give up!"

Then police spotted a third Panther member in the room, Ronald Satchel, 19, of 2337 Monroe st., who also surrendered. He also had been wounded.

In both bedrooms, police found large stores of arms and ammunition. In Hampton's back bedroom, four boxes of shotgun shells were found as well as shotguns, a rifle, and hand guns. Similar caches were in the front bedroom, some of it in a flight bag.

On the evening of December 11 a unique exposure of the detailed account occurred. Using a mock-up of the apartment built in the State's Attorney's Office, a 28-minute televised re-enactment was presented on WBBM-TV. In the re-enactment each officer acted out and described his part in the raid.¹⁵ The essentials were the same as had been presented in the *Tribune* exclusive, except that in the re-enactment Officer Gorman described how he and Officer Davis, blocked from proceeding down the hallway by Panther gunfire, fired their weapons (a .45 caliber submachine gun and a .30 caliber carbine respectively) through the living room wall and into the bedroom area. According to a *Chicago Daily News* television columnist the following day, the re-enactment was given to WBBM with the provision that "... nearly the entire police version be broadcast without interruption." He also reported that "Other local TV stations reported they had been offered the same story possibility, but news directors there said they had refused to work under Hanrahan's restrictions."

The media controversy reached a new high on December 12 when the *Chicago Sun Times* exposed the fact that the pictures that accompanied the *Chicago Tribune* "exclusive" had been erroneously described. After visiting the apartment the *Chicago Sun Times* reporter claimed that the picture of bullet holes near the kitchen door was in fact of nail holes and that the photo purporting to show the bathroom door (proving that the Panthers had fired from the front bedroom) was in fact a picture of the door to the front (north) bedroom which had been struck by police bullets fired through the living room wall. The State's Attorney's Office and the *Chicago Tribune* both acknowledged the mistake, but no explanation of how it occurred was provided.

There was also a further development with respect to the use of polygraph tests. A front page headline in *Chicago Today* proclaimed

¹⁵ The Grand Jury has viewed both the televised re-enactment and film not shown and concludes that the re-enactment was carefully staged and rehearsed.

"Hanrahan Lie Test Challenge to Panthers." The story quoted a press conference statement by the State's Attorney that he had refused a request by the officers to take lie detector tests "... for fear that granting it would suggest some doubt on our part." Mr. Hanrahan was quoted as challenging the occupants to submit to such tests saying that if they did so permission would be granted for the officers to do likewise (*Chicago Today* 12/11/69). The next day the same paper quoted Panther leader Rush as rejecting the "challenge" because "I wouldn't trust the people who would be administering the lie test ... And once they (the police) get you and lock you up in a room, they can get you to say anything they want you to say." Rush also repeated his earlier allegations of a planned police murder. He described how the police arrived in an unmarked truck full of machine guns and cordoned off the block. "Like buzzards waiting for the kill, they waited outside until the lights went off." Using "... a detailed map of Hampton's apartment," Rush said, "Patrolmen Edward Carmody and John Ciszewski were to shoot Fred while a detail led by Sgt. Daniel Groth were taking care of business in the front." Rush concluded that murder indictments should be issued against Hanrahan, Richard Jalovec and Judge Collins (*Chicago Today* 12/12/69).

Recapitulations and summaries of the various stories appeared almost daily in all of the Chicago papers. On December 16, Mayor Daley pledged full support for the upcoming inquest and Coroner Toman announced that a special "blue ribbon" coroner's jury of three black and three white citizens was being selected (*Chicago Sun Times* 12/16/69).

Several days later Harvey Johnson, operating director of the Chicago Crime Commission was reported as having accompanied police on a second search of the apartment on December 17 and 18. The story quotes Johnson as saying that new evidence had been discovered supporting the police version in the form of bird shot pellets fired from within the apartment in the direction of the raiding officers. Johnson attributed the pellets to non-police weapons "... because any policeman who used birdshot would be laughed out of the station."¹⁶ The pellets were reportedly found in the north wall of the front (north) bedroom. A search failed to turn up the deer slug allegedly fired through the door. This story also reflected that Coroner Toman had sealed the premises on December 17, some two weeks after the incident (*Chicago Tribune* 12/19/69).

¹⁶ As a matter of fact, the State's Attorney's Police were issued number 8 birdshot. See p. 32, *infra*.

On December 19, the *Daily Defender* again ran the Rush charges. In this story Rush not only claimed that Hampton and Clark had been murdered but that it was the product of a conspiracy "... in retaliation for the killing of two white policemen by Panthers in a recent shootout on the Southside." The story said Rush claimed that "... officer John Ciszewski, a member of Hanrahan's raiding squad is brother of policeman Charles Gilhouey [Gilhooly] who was killed in the Southside gun battle with Panthers."¹⁷

On the same day that the article appeared, several Chicago papers reported that the Justice Department would convene a special Grand Jury to investigate the controversial case after federal investigators had encountered a lack of cooperation. As announcement of a Grand Jury investigation was made, the IID investigation ended, and an independent inquiry had begun:

Meanwhile, the police internal inspections division ended its investigation of possible misconduct by the state's attorney's raiders, only 9 days after it started. The raiders were found to have acted properly.

A statement from Police Supt. James B. Conlisk said: "The investigation has clearly established the following facts:

"1. The police officers were acting pursuant to the lawful direction of a search warrant.

2. The police were subjected to deadly assault by firearms, which is a forcible felony, and exercised lawful means to overcome the assault."

An independent inquiry into the Dec. 4 raid by six black members of Congress is to open today at the Colonial House, 914 E. 79th st. The legislators will tour the death scene and hear testimony (*Chicago Today* 12/20/69).

Another paper reported that the U.S. Commission on Civil Rights was also considering an independent investigation and would confer with the volunteer group of 28 prominent persons headed by Arthur Goldberg, former United Nations Ambassador (*Chicago Daily News* 12/19/69).

Congressional investigators headed by Rep. Charles C. Diggs, Jr. (D-Mich.) held an unofficial one day hearing during which many of the city's black community leaders testified. No eyewitness testimony was heard.

[First Assistant State's Attorney] Murray told the Congressmen he would not discuss the matter because it would be "inappropriate for our office" because it was the subject of

¹⁷ Ciszewski and Gilhooly are not related.

legal inquiries and also because Saturday's hearing was "without any authority of Congress."

Appearing several hours later, defense counsel Kermit Coleman told the lawmakers:

"I don't want to discuss certain things about the case. I'm not trying to hide anything but I want to confine ourselves to discussing this thing without bringing up any evidence" (*Chicago Sun Times* 12/21/69).

Almost simultaneous to the opening of the investigation by the Grand Jury, the special Coroner's Jury impaneled to hear evidence and determine the cause of death of Hampton and Clark, convened on January 6, 1970. The action had been announced earlier but was delayed while a special coroner and six "blue ribbon" jurors were selected. Attorney Martin S. Gerber was named special coroner to preside and six prominent citizens, three black and three white, were finally selected. Tight security was imposed at the hearing. The fourteen police officers testified and photographs and scientific evidence was presented. The surviving occupants of the apartment, all charged with various offenses in the incident, announced their intention to refuse to testify on advice of counsel. After 12 days of testimony, much of it summarized in daily press coverage, the Coroner's Jury returned its verdict of justifiable homicide "'... based solely and exclusively on the evidence presented'" (*Chicago Today* 1/22/70).

Another controversial story broke just as this Grand Jury was convened on January 6, 1970. The *Daily Defender* announced that Hampton had been drugged before his death. Reporting on a press conference held by Bobby Rush the story said that a former state pathologist hired by Hampton's family had found a heavy dose of seconal present in Hampton's blood. "'This was such a heavy dose,' Rush said, 'that Chairman Fred couldn't have gotten out of bed or engage in a shoot out . . . A pig agent must have given it to him . . . because Fred never used any drugs and J. Edgar Hoover (head of the FBI) has said he has infiltrators in the Black Panther Party.'"

C. The Organization of the Grand Jury's Investigation

When the Grand Jury considered its assignment to make an exhaustive inquiry into all the facts surrounding the incident of December 4, 1969, it was faced with a situation of intense public concern. A Coroner's Inquest was underway, a county grand jury had been convened, factual controversies were being argued in the daily press, the police version was well known, having been published both in print and on television, and, while the occupants refused to tell their story because of impending prosecutions, Panther spokesmen loudly insisted the physical evidence proved a political assassination.

Indeed, there were even competing autopsies that disagreed as to the direction of travel of the fatal bullets and whether Hampton was stupefied with drugs when he was shot.

In addition, the physical evidence was partly in the possession of police, partly in possession of Panther agents and, perhaps, partly remaining in the premises thru which thousands of sightseers had trooped in the two week interval before the apartment was sealed. No thorough and scientific, official search of the premises had been made.

The best methodology available to the Grand Jury, and the one adopted, was first to attempt to collect every possible item of physical evidence recoverable; second, to submit all of such evidence together with all weapons known to have been on the premises to the FBI Laboratory in Washington for definitive ballistics analyses; third, to have a scale model of the apartment constructed by the FBI exhibit section, showing, as nearly as possible, the location of all bullet holes and furniture; fourth, while this was being done, to try to resolve all issues not related to the scene, e.g. the conflicting autopsy reports and the Hampton drug question, and to hear any relevant testimony from neighborhood residents, collect and analyze all news accounts and copies of the television re-enactment; fifth, after being fully briefed on what the physical evidence showed and what it did not show, to hear testimony from each of the participants.

The Grand Jury recognized that because of the pending state prosecutions and their suspicion of any "establishment" proceeding, the survivors might be reluctant to testify. It was hoped, however, that they could be persuaded to reconsider since the principal focus of the proceeding was to determine if their civil rights had been violated.

This was the course taken. After appropriate court orders were entered, all of the weapons seized at the apartment, all of the police weapons carried that morning and all of the physical evidence in the possession of the Chicago Police Crime Laboratory was obtained and forwarded to Washington. After appropriate orders had been obtained from Chief Justice Powers of Cook County Circuit Court, attorneys for the surviving occupants produced all of the materials removed by them from the apartment. Several FBI agents spent approximately twenty-four days sifting through the considerable debris at the apartment and recovering other items of evidence. All of this material was turned over to the FBI for careful expert appraisal and report.

The organization of the sections which follow essentially tracks the Grand Jury's investigation.

D. The State's Attorney's Police Plan the Raid

Under Illinois law the State's Attorney in each county is generally responsible for providing legal representation in all suits, actions, indictments and prosecutions, civil and criminal, in which the people of his county may be concerned and for certain other functions prescribed by law.¹⁸ As the largest State's Attorney's Office in the state, Cook County has a professional staff of some 200 attorneys. The Cook County State's Attorney is Edward V. Hanrahan, elected to a four year term in 1968 after resigning as United States Attorney, Northern District of Illinois.

In addition to the professional staff, the Cook County State's Attorney's Office also includes 10 to 12 investigators and a special force of police officers drawn principally from the Chicago Police Department, with a few also furnished by the Cook County Sheriff's Office. This arrangement was established a number of years ago by agreement among the law enforcement agencies and is not required by law. The State's Attorney's Police have various responsibilities, including assisting attorneys in preparing for trials, obtaining prosecutive evidence for grand juries and trials, providing security for witnesses and service of process.

There are a total of 116 officers serving as State's Attorney's Police. The chief of this regular contingent of State's Attorney's Police is Chief Charles G. Ward, a former Regional Director of the Federal Narcotics Bureau. Most of these men are on detached service, i.e., although they are still Chicago Police officers they have been relieved from their regular duties and work directly for the State's Attorney. Because of the State's Attorney's county-wide jurisdiction, most of the State's Attorney's Office police officers have been sworn in as deputy sheriffs so they can exercise authority outside of the limits of Chicago.¹⁹

One of the special units of the State's Attorney's Police is called the Special Prosecutions Unit. This unit, formed in February 1969, consists of five Assistant State's Attorneys assisted by two teams of State's Attorney's Police. The first team is made up of nine men on the regular detached service, under Sgt. Cagney. The second team of nine men was formed in June of 1969. The men were screened and selected from

¹⁸ S.H.A. Ch. 14, Section 5.

¹⁹ Tr. XV, pp. 8-9.

the Chicago Police Department by the Assistant State's Attorney in charge of the unit, Richard S. Jalovec. These men have been detailed to the State's Attorney's Office, but are still carried on the roster of one of the regular Chicago Police districts. The officer in charge of this group is Sgt. Daniel Groth, a twelve year veteran of the Chicago Police.²⁰

The function of the Special Prosecutions Unit is to handle special problems and prosecutions dealing with youth gangs and to advise and assist in mass arrests and the resulting prosecutions. The regular team, i.e. those on detached service, are included in the regular State's Attorney's Office police organization under Chief Ward. The group of officers under Sgt. Groth are not part of the regular contingent and report only to Assistant State's Attorney Jalovec and State's Attorney Hanrahan. Since they are "detailed" (rather than detached) from the Chicago Police, their jurisdiction is only in the city.²¹

Assistant State's Attorney Jalovec stated that he had personally supervised the selection process of Sgt. Groth's team of officers after soliciting suggested names from a number of other attorneys in the office.²² The group was designed to provide a cross section of experience and expertise and includes officers from the Gang Intelligence Unit, Robbery, Homicide, Youth Division. In the course of the selection, Jalovec requested the disciplinary records of each officer from the Internal Inspections Division (IID), and was advised that only one, James Davis, had a rather minor charge against him sustained. He neither sought nor received the records of all charges filed against the officers which had been classed by IID as unfounded or not sustained.²³

Consistent with its established policy of cooperation with state and local law enforcement agencies, the Federal Bureau of Investigation advises all affected agencies of information that may be relevant to law enforcement problems. On November 21, an agent of the FBI obtained information from a confidential source that the Chicago Black Panther Party had a stockpile of weapons and ammunition at 2337 West Monroe Street, Chicago. According to the FBI's information, the stockpile included 5 carbines with 50,000 rounds of ammunition,

²⁰ Tr. XV, pp. 7-8.

²¹ Tr. XV, pp. 9-10.

²² On May 4, 1970, Mr. Hanrahan testified that he, too, personally participated in the selection of some of the officers.

²³ Tr. XV, p. 18. Records of IID subpoenaed by this Grand Jury show that each of the officers have had complaints registered against them at IID and that charges had been sustained against two of those selected (Exhibits 88 and 90). The personnel file of each officer selected also contains records of commendations and citations (Exhibit Group 6, #126).

3 gas masks, 3 smoke bombs, 5 Ithaca riot shotguns plus ammunition, 4-38 caliber handguns plus ammunition and one .357 magnum plus ammunition. The Bureau information also set forth a list of seven persons most frequently at the apartment which included: Fred Hampton, Ronald Satchel, Louis Truelock and Deborah Johnson. Finally, the information received indicated that the weapons involved had been purchased by female Panthers who had no police records. The available descriptions did not indicate a violation of federal gun laws.²⁴

This information was promptly forwarded to the Chicago Police Department. Because of the Bureau's understanding that the Special Prosecutions Unit of the State's Attorney's Office would also be concerned about such information—both because of the potential relationship to its youth gang activities and because the State's Attorney would have to authorize any potential search warrant—Assistant State's Attorney Jalovec was also given this information. Mr. Jalovec did not discuss this information with anyone and did not request a search warrant.²⁵

On November 23, 1969, the FBI obtained additional information to the effect that the weapons had been removed from the premises, allegedly because the Panthers had found out a police raid had been planned for November 25. The FBI agent in charge immediately called the Director of the Chicago Police Intelligence Division who confirmed that such a raid had been planned and that it would be cancelled.²⁶

On December 1, the FBI received information that some of the subject weapons had been returned to 2337 West Monroe. This information was again relayed to the Chicago Police Department and to Assistant State's Attorney Jalovec. A Bureau agent reconfirmed this with Jalovec on December 2 and at that time reviewed the original information on the type of weapons and the persons frequently seen there.²⁷

Also, on December 2, Sergeant Groth obtained information from a different confidential informant, who he said had supplied accurate information to him in the past, that there were a number of weapons collected at 2337 West Monroe. The weapons allegedly in the first floor apartment consisted of three sawed-off shotguns with barrels about 12 inches long, three stolen Chicago Police Department riot shotguns, an unspecified number of rifles and handguns and 45 or 50 thousand rounds of ammunition.²⁸

²⁴ Tr. XII, p. 123.

²⁵ Tr. XII, pp. 117-118; Tr. XV, p. 30.

²⁶ Tr. XII, p. 119.

²⁷ Tr. XII, pp. 119-120.

²⁸ Tr. XXIV, p. 20.

The weapons described to Sgt. Groth included two categories of illegal guns, the stolen police weapons and the sawed-off shotguns. No information was received as to whether the other guns were properly registered.²⁹

On the way to work on the morning of December 3, Sgt. Groth drove by the address and inspected the neighborhood for about 20 minutes. He then proceeded to his office where he advised Mr. Jalovec of his information. Jalovec told Groth that he, too, had received information relating to weapons at this location. Jalovec did not disclose the source of his information to Groth, but did advise him that his information was that there were sawed-off shotguns and other weapons on the premises and that Fred Hampton was one of the persons frequently seen there.³⁰ Neither Groth nor Jalovec advised the FBI or the Chicago Police of the information Groth had received.³¹

It should be noted that Assistant State's Attorney Jalovec had not been advised by the FBI that "sawed-off shotguns" were present in the apartment. Rather the agent told him that three Ithaca riot shotguns were present. Jalovec interpreted the term "riot shotgun" as synonymous with "sawed-off shotgun" and therefore felt that his information confirmed that obtained by Sgt. Groth. In point of fact an Ithaca riot shotgun has a barrel length in excess of 18 inches and is therefore not illegal.³²

After comparing their information, Sgt. Groth and Assistant State's Attorney Jalovec discussed the possibility of obtaining a search warrant for the seizure of the weapons. They determined that they had sufficient evidence to establish probable cause. Mr. Jalovec prepared a search warrant and Sgt. Groth began to plan the mission.³³

At the Coroner's Inquest, Sgt. Groth stated that his informant had advised that on Monday, Wednesday and Friday the occupants of the apartment would all be out of the premises attending a political orientation class at 8:00 p.m. which was suggested as an appropriate time for raid. However, before this Grand Jury, Sgt. Groth stated this information had been supplied by Mr. Jalovec and that his prior testimony was in error.³⁴

In any event, Sgt. Groth conferred with several of the other experienced officers in his unit at lunch on December 3, and it was agreed that a raid should not be planned for 8:00 p.m., but for an early morning

²⁹ Tr. XXIV, p. 21.

³⁰ Tr. XXIV, pp. 23-24.

³¹ Tr. XXIV, pp. 152-153; Tr. XV, pp. 83-84.

³² Tr. XV, p. 29; Tr. XXIV, p. 24.

³³ Tr. XXIV, p. 24; Tr. XV, p. 31.

³⁴ Tr. XXIV, pp. 146-147.

hour to achieve the maximum surprise and minimum potential for neighborhood interference. There was also discussion that the 8:00 p.m. suggestion could be a trap.³⁵

Also, during the day, Sgt. Groth dispatched Officers Kelly and Davis to observe the premises in private cars, obtain a description of the building and the neighborhood, and prepare a sketch of relevant items. Sergeant Groth determined that he would need some additional men for the raid and discussed with Sgt. Cagney the availability of some of his men. He then contacted five of these officers individually and advised each to be prepared to go out to execute a search warrant for illegal weapons. The five men from Sgt. Cagney's squad were Officers Broderick, Gorman, Hughes, Harris and Corbett. For security reasons Sgt. Groth did not advise any of his men or those recruited of the site of the raid or that it involved Black Panther arms. Sgt. Groth stated that the police department was not notified of the plan because he feared there could be a leak to the Panthers.³⁶

Later that afternoon Mr. Jalovec completed the preparation of the complaint for a search warrant and the form for the warrant. Based on his concept that riot guns were illegal sawed-off shotguns, the complaint included the information supplied to him by the FBI.³⁷ The complaint requests that a search warrant be issued to search the premises at 2337 W. Monroe, first floor apartment for "sawed-off shotguns and other illegal weapons" which had been used in or constitute evidence of the offense of "Unlawful Use of Weapons." The recitation of probable cause is as follows:

A reliable informant, who has furnished reliable information to affiant on several past occasions which has led to the confiscation of 2 sawed-off shotguns in two separate raids, and has provided information that has led to several convictions, informed the affiant DANIEL GROTH that on December 2, 1969, he had occasion to enter the above described premises at 2337 W. Monroe 1st floor apartment. During this visit, he observed numerous weapons, including three sawed-off shotguns, whose barrels appeared to be approximately 12 inches in length. Along with these weapons he observed numerous rounds of ammunition. When he left the premises the above described sawed-off shotguns were still there. Independently of this information, DANIEL GROTH was informed by ASA Richard S. Jalovec, that on December 2, 1969, Jalovec had a conversation with a reliable informant who also stated

³⁵ Tr. XV, p. 204; Tr. XXIV, pp. 25-26.

³⁶ Tr. XXIV, pp. 31, 153.

³⁷ Tr. XV, pp. 34-35.

that sawed-off shotguns and other weapons were being stored in the first floor apartment at 2337 W. Monroe, Chicago, Ill. This informant, according to Jalovec, has provided information in the past which has led to the arrest and indictment of numerous individuals.³⁸

Sergeant Groth then signed the sworn complaint before Circuit Judge Robert Collins with whom Mr. Jalovec had made an appointment. Mr. Jalovec had first called Circuit Judge Frank Delaney who was unavailable. Judge Collins reviewed the information in the complaint and signed the warrant late on the afternoon of December 3.³⁹

Some of the men who had been alerted by Sgt. Groth drew heavy weapons from the State's Attorney Police arsenal. Sergeant Delaney, who is in charge of weapons, issued a Thompson submachine gun and 110 rounds of ammunition to Detective Gorman and three 12 gauge shotguns to Officers Corbett and Broderick, who were to give the extra weapon to one of the other officers. Sgt. Delaney also issued them 25 rounds of number 8 birdshot and 15 rounds of double ought buckshot.⁴⁰

Sgt. Groth testified that he first found out Officer Gorman was bringing a submachine gun about 5:00 or 5:30 p.m. on December 3 after the weapon was checked out, and that he had never been on a prior raid where such a weapon was carried. Sgt. Groth could not recall specifically whether he or Gorman suggested bringing it, but did not believe it was his (Groth's) idea.⁴¹

Assistant State's Attorney Jalovec recalled going over the basic plan and suggesting to Sgt. Groth that he should take more men along because in Jalovec's opinion 14 was insufficient. Mr. Jalovec based this on his knowledge that the Chicago Police use 50 to 100 men in similar situations because "you never know what is going to happen."⁴² However, Sgt. Groth could recall no such conversation and doubted that he had been so advised by Jalovec. In any event, he would not have changed his plan because "He is a lawyer; I am a policeman."⁴³ Mr. Jalovec agreed "in retrospect" that 14 men were sufficient and probably better because "you didn't have people stepping over each other and running into each other."⁴⁴

Sgt. Groth advised each of the participating officers either before they left the office or telephonically at their homes that the raid would

not be conducted that evening but all would report to the State's Attorney's Office at 4:00 a.m., December 4. Sgt. Groth drew up a written plan for the raid at his home on the night of December 3.⁴⁵

The plan called for Sgt. Groth and Officers Jones, Davis, Gorman and Hughes to go in the front door of the apartment and Officers Carmody, Joseph and Kelly to remain at the rear door. Corbett and Broderick would secure the outer rear of the premises and Marusich, Harris and Howard the outer front. Marusich and Corbett would each have a walkie-talkie outside and Ciszewski would carry one inside. The written plan concluded "Entire raid could be a trap, so be very careful." Sgt. Groth said that was put in the plan to emphasize the danger because of his understanding that Panthers frequently had someone on watch around the clock.⁴⁶

In preparing for and planning the raid, Sgt. Groth did not order a surveillance of the premises on the night of the third to determine whether the apartment was occupied or to observe persons arriving or leaving. Neither did he endeavor to ascertain by surveillance or otherwise whether Fred Hampton would be there, notwithstanding the fact that Mr. Jalovec had indicated Hampton was seen frequently at the apartment and Groth knew him to be a convicted felon under indictment for a violent crime.⁴⁷

Sgt. Groth did not consider the use of portable sound equipment or the device previously used by the FBI of calling the apartment on the phone to advise the occupants that the police had the place surrounded. Sgt. Groth believed strongly that the latter device would have been a bad idea. Sgt. Groth's plan did not contemplate the use of tear gas or portable lighting equipment.⁴⁸

Assistant State's Attorney Jalovec met with State's Attorney Hanrahan about 5:00 p.m. on the evening of December 3 about several other matters and mentioned that his men were serving a warrant for Panther guns in the morning. Mr. Jalovec viewed the raid as "a normal thing" and would probably not have mentioned it to his superior had it not been for having several other matters to discuss.⁴⁹

At 4:00 a.m. on December 4, Sgt. Groth briefed the 13 assembled officers and for the first time told them the location of the raid and that Panther arms were involved. He did not believe the information that Hampton would possibly be in the apartment was relevant to the plan and did not so advise the men.⁵⁰ Detective Gorman was the

³⁸ Exhibit 71.

³⁹ Tr. XV, pp. 35-36; Tr. XXIV, p. 31.

⁴⁰ Tr. XII, pp. 48-51; Exhibit 102.

⁴¹ Tr. XXIV, pp. 40-41.

⁴² Tr. XV, pp. 37-38.

⁴³ Tr. XXIV, p. 155.

⁴⁴ Tr. XV, p. 38.

⁴⁵ Tr. XXIV, pp. 33-35.

⁴⁶ Tr. XXIV, pp. 34-35, 149; Exhibit 8, #5.

⁴⁷ Tr. XXIV, pp. 36-37, 101-103.

⁴⁸ Tr. XXIV, pp. 35, 41.

⁴⁹ Tr. XV, pp. 42-43.

⁵⁰ Tr. XXIV, 36-37.

only officer who had prior dealings with Hampton, having worked on the torture and kidnapping case. Gorman testified that he considered Hampton "dangerous," that he would have been more concerned for his personal safety had he known of Hampton's potential presence and that he would have carried more ammunition with him.⁵¹

Sgt. Groth outlined the basic plan as set forth in his prepared order. Sgt. Groth had not told the men how to arm themselves for the operation but did see that several had brought personal weapons and indicated he had no objection to their being carried. Sgt. Groth believes this is substantial compliance with the Chicago Police regulation prohibiting officers from carrying personal weapons except at the direction of their superiors.⁵²

The following table reflects the officers' armament for the raid:

<i>Officer</i>	<i>Revolvers</i>	<i>Personal rifles & shotguns</i>	<i>Heavy weapons issued</i>
Broderick, Raymond	(1) .38 cal		(1) Remington Wingmaster 12 ga. shotgun.
Carmody, Edward	(1) .38 cal		
Ciszewski, John	(1) .38 cal	(1) Hi-Standard K-1200 12 ga. shotgun.	
Corbett, William	(1) .38 cal		(1) Remington Wingmaster 12 ga. shotgun.
Davis, James	(1 or 2) .38 cal.	(1) .30 cal. Carbine	
Gorman, Joseph	(1) .357 cal		(1) .45 cal. Thomp- son submachine gun.
Groth, Daniel	(2) .38 cal		
Harris, Lynwood	(1) .38 cal		
Howard, Fred	(2) .38 cal		
Hughes, Robert	(2) .38 cal		
Jones, George	(2) .38 cal	(1) Sawed-off 12 ga. [19½"] double- barreled shotgun.	
Joseph, Philip	(2) .38 cal		
Kelly, William	(1) .38 cal		(1) Remington Wingmaster 12 ga. shotgun.
Marusich, John	(2) .38 cal		

⁵¹ Tr. XXV, pp. 163-165.

⁵² Tr. XXIV, pp. 39-40; Exhibit 6, #124 (Order No. 68-16).

Sgt. Groth did not have any special plan for dealing with the possibility of resistance. However, he did emphasize, as he says he always does, that officers should not use their weapons indiscriminately: "This has been my criteria ever since I have been a sergeant, don't shoot, don't shoot." ⁵³

After the briefing, the 14 State's Attorney's Police left the office in three cars and an unmarked panel truck and proceeded directly to the scene.⁵⁴

⁵³ Tr. XXIV, p. 42.

⁵⁴ Tr. XXIV, p. 45.

E. *Security of the Premises*

One of this Grand Jury's first acts was to apply for an order of the Federal District Court calling for sequestration of the premises to take effect whenever the Coroner's seal placed on the apartment December 17, 1969, was removed. Such an order was issued on January 7, 1970, and thereafter the premises were in the official custody of the U.S. Marshals. The premises were boarded and locked and a deputy marshal and a Chicago police officer remained at the front and back of the apartment twenty-four hours a day during the investigation.

One of the interim matters which the Grand Jury took up was the question of why the raided premises were not sealed or otherwise made secure until December 17, almost two weeks after the incident. During those two weeks, beginning on the morning of the incident, Black Panther guides conducted tours for newsmen, neighborhood residents, students and the idly curious. The guides' explanation included allegations that Hampton was killed in his sleep; that after the shooting began he rolled over and protected Deborah Johnson, giving his life to save hers; that he was shot through the door; that he was shot through the window; that the patterns of bullet holes showed the police had done all the firing; and that pictures published in the press supporting the charge that Panthers had fired were fraudulent and in furtherance of the police conspiracy.⁵⁵ Detailed accounts of these various allegations were presented on television and in the press.

The thrust of the Grand Jury's inquiry on this point was to determine whether sound law enforcement procedures required the premises to be secured, if so, whose responsibility it was to safeguard the apartment, and why it was not done for two weeks.

After the shooting stopped, the first priority, according to the State's Attorney's Police, was to remove the dead, the wounded and those under arrest. Various squadrols responding to the call for assistance arrived almost immediately after the shooting. The second priority, according to the officers, was to complete their search for weapons and ammunition and to recover all the physical evidence. According to the officers, it was decided that the job of gathering evidence could best be performed by a Mobile Unit from the Police Crime Laboratory,

⁵⁵ Exhibit 47.

although the State's Attorney's Police did collect a number of spent cartridges and other items.⁵⁶ This material was placed with the weapons found in the apartment on a mattress in the living room. From there it was put in the State's Attorney's Police truck and transported to their headquarters.

A few minutes after the shooting ceased, Deputy Superintendent Merle Nygren arrived on the scene. During the night shift Deputy Superintendent Nygren represents and has all the authority of the Superintendent. Superintendent Nygren explained that he arrived at the premises about six or seven minutes after hearing the call for assistance on his radio. The shooting was over when he arrived. He was met by Sgt. Groth who explained that when the officers sought entrance they were fired upon through the door by a girl in the living room, the shotgun deer slug going through the living room door and narrowly missing the officers there. After a brief stay of 20-30 minutes, during which he made sure the wounded were cared for, ordered the wounded officers to the hospital and requested the Mobile Crime Lab Unit to come to the scene, Superintendent Nygren left. As he left he talked briefly with the 13th District Watch Commander and Field Lieutenant about securing the premises. He specifically instructed the Field Lieutenant to place two uniformed officers at the front door and two at the back door "... until the investigation was completed, and in fact until they were notified by the State's Attorney's Office that the detail would no longer be required." Superintendent Nygren testified that officers were stationed in front and back according to his order. His view of the police responsibility was to maintain security of the premises to the extent necessary to complete the investigation which in this instance was being handled by the State's Attorney's Office.⁵⁷

The Watch Commander testified that when he was relieved at 6:20 a.m., he told his replacement of the shootout and that 13th District Units were stationed in the front and the rear.⁵⁸ One of the officers who was stationed at the front door testified that he was told to secure the front door and "Keep out all unauthorized personnel." He continued on this assignment until relieved at 7:30 a.m. The relief was announced by an unknown member of the day watch from the 13th District. Shortly after 7:30 a.m. the officer explained:

⁵⁶ Supt. Conlisk directly contradicts this version; he was informed that evidence collection was performed by the State's Attorney's Police, and that they refused to allow the Mobile Crime Unit officer to perform this function (Tr. XXIX, pp. 32-33, 41-42).

⁵⁷ Tr. XIII, pp. 3-42.

⁵⁸ Tr. XIII, pp. 105-110.

Well, this patrolman who came by in his squad car, the day watch, informed us that there had been a radio broadcast that we were to be relieved at 0730 hours, which it was past that time then, so we just left the scene.⁵⁹

Apparently, the apartment was taken over by representatives of the Black Panthers shortly thereafter. Attorney Francis Andrew testified that he was called to the premises at approximately 6:00 or 6:30 a.m. When he arrived there were no police present and the only person in the apartment was one member of the Panther Party.⁶⁰

The State's Attorney's Police cannot fix the time of their departure but all agree they were not there very long. While Superintendent Nygren was speaking with Sgt. Groth, one of the officers, Detective Gorman, called the office and spoke with Assistant State's Attorney Jalovec. He inquired, first, what disposition should be made of the weapons and Jalovec directed they be brought to the office to be inventoried. Second, Gorman asked what should be done with the apartment because of his assumption that "... our office would send a State's Attorney over and start the investigation right there." However, Jalovec said no one would come out and directed "... you better get out of there before there's a riot."⁶¹

The early departure is also confirmed by the testimony of the sergeant who led the Mobile Crime Lab team. He estimated he arrived at the scene about 5:15 a.m. and his notes indicated that he was at the morgue taking pictures of Hampton and Clark at 7:00 a.m. Since it takes 10 to 15 minutes to drive to the morgue, the laboratory team must have left no later than 6:45 or 6:50 a.m.⁶²

Grand Jury investigators monitored police tape recordings of all bands carrying radio traffic which could be heard by squad cars assigned to the 13th District. During the time immediately before and after 7:30 a.m. there was no broadcast discovered which ordered the relief of 13th District officers from the front and back door of the scene.⁶³

The premises were ultimately sealed on December 17, after State's Attorney's Police revisited the premises to attempt to recover further evidence. At this time, a Coroner's seal was placed on the apartment. According to the papers at the time, the Coroner did not realize the premises were not sealed until he read newspaper accounts that so indicated.⁶⁴ The testimony relating to the use of Coroner's seals and

⁵⁹ Tr. XIII, p. 206.

⁶⁰ Tr. VIII, pp. 180-181.

⁶¹ Tr. XXV, pp. 235-237.

⁶² Tr. XVI, p. 235.

⁶³ Exhibit 87.

⁶⁴ Exhibit 113; *Chicago Sun Times* 12/18/69.

the responsibility for affixing them is confusing and inconsistent.

Superintendent Nygren's understanding of the purpose of a Coroner's seal was that it was to be placed on premises where someone is found dead and there is a need to protect the premises so that the public administrator could inventory the assets and belongings of a decedent. In his 29 years with the Chicago Police, this case was the first where he had known of a Coroner's seal being used to protect premises for law enforcement purposes. Obtaining and preserving evidence, according to Nygren, is a proper police function unrelated to the Coroner's duties.⁶⁵

However, the Chief Deputy Coroner had a significantly different impression. He testified that the first notice the Coroner's Office had of this incident was when the bodies of Hampton and Clark were brought to the morgue at 6:00 a.m. on December 4. While the normal procedure is for police to call in from the scene of a violent death before moving the bodies, there is no record of this being done here. Had it been done, the normal practice would have been not to remove the bodies until a Coroner's investigator reached the scene. This would normally be a Deputy Coroner who would get information for the Coroner's Office and for the inquest. No photographs or other investigation is normally conducted.⁶⁶ With respect to sealing the premises, the Chief Deputy Coroner said that even after notification of a violent death, the Coroner's Office has no responsibility for sealing the premises. The seal in this case was affixed in connection with the special inquest. The Chief Deputy explained the responsibility for sealing it earlier was with the police:

Well, the usual procedure in these cases is the Coroner's Office furnishes seals to members of the Police Department, in case they want to seal up a place where death occurs.

It is up to the Police Department to seal the place, if they so desire.

In this case, they made their raid and in their opinion, I guess they didn't think it was necessary to seal it.⁶⁷

Another view was expressed by the 13th District Watch Commander. He testified as to this practice in affixing Coroner's seals:

Well, if there has been a death—usually it is just one room, I think, they would put a Coroner's seal on a place.

But here, there were, I guess, six or eight people living there. I think the reason the seal was not put on was because they anticipated that some of them would make bond and

⁶⁵ Tr. XIII, pp. 29-33.

⁶⁶ Tr. IV, pp. 60-69.

⁶⁷ Tr. IV, pp. 59-60.

come back there to live. I mean, that's just my way of thinking.⁶⁸

Thus, the various civil authorities which could have sealed the premises while a detailed and thorough examination was made all declined responsibility for the failure to seal. Sgt. Groth testified that he left the premises in the custody of the Mobile Crime Lab Unit and the 13th District between 5:20 and 5:30 a.m. on December 4.⁶⁹ He felt the premises were secured when he left, and testified that he had not "... the slightest idea" why the premises were left unguarded.⁷⁰ He had received the impression that the premises would be secured.⁷¹ Superintendent Conlisk testified that a detail of men was routinely assigned by Assistant Deputy Superintendent Nygren to secure the premises, but that detail was ordered removed by the State's Attorney's Office.⁷² No trace of the source of such an order, nor of the means of transmittal, had been found at the time he testified.⁷³

Assistant State's Attorney Javolec testified that sealing such premises is not ordinarily done, but that in hindsight, it would have been a good idea to seal the premises off.⁷⁴ State's Attorney Hanrahan testified there was "absolutely no order" from his office to relieve the police guards.⁷⁵

The Grand Jury is unable to conclude who failed to seal the premises.

Assistant State's Attorney Javolec, who had reportedly advised Gorman that the officers should leave to prevent a disorder, gave this response when asked why the premises were not sealed:

Well, first of all, it wouldn't have been—maybe it would have been my decision—I don't know—again, I don't take part in the day-to-day police work, but I do know, in subsequently talking to Commander Flannigan, the head of Homicide, when we talked about sealing the apartment—and he has been head of Homicide in Chicago for 20 years—he said he doesn't know of one instance where an apartment was sealed.

⁶⁸ Tr. XIII, p. 110.

⁶⁹ Tr. XXIV, p. 92.

⁷⁰ Tr. XXIV, pp. 94-95.

⁷¹ Tr. XXIV, p. 115.

⁷² Tr. XXIX, pp. 33-34, 40-41.

⁷³ Supt. Conlisk subsequently advised that a radio transmission calling off the security had been made by a Capt. Casey. There was no Capt. Casey on duty, but there was a Sgt. Casey who denied any knowledge of the call. He also advised that a Lt. Coburn had advised the State's Attorney's Police that the guard had been ordered removed.

⁷⁴ Tr. XV, pp. 77-78, 94-96.

⁷⁵ Tr. XXXI, p. 11.

Now, in view of all the publicity and everything that happened, it is very easy to look back and say this should have been sealed right away.

But at the time, as I say, when they got back, they were really in shock, they had come through a gun battle, they didn't know that the individual known as Hampton was one of those involved, they wanted to clear out of the neighborhood as soon as they could, because the neighborhood is just a block away from Panther headquarters there on Madison, and there were many instances of shooting from the headquarters at police there.

So, in retrospect, it is easy for me, too, to say this should have been sealed off, it is something that is not normally done and was not done that morning.

* * * * *

I believe that the police just left and took the individuals with them, took all the guns with them, picked up many empty shells and casings, and that was it.⁷⁶

⁷⁶ Tr. XV, pp. 77-78, 80.

F. State's Attorney's Police and the Chicago Police Department Crime Laboratory Search the Scene and Process the Evidence

When this Grand Jury undertook to collect all of the physical evidence for laboratory analysis by the FBI, it discovered that only some of the ballistics evidence, principally seized weapons and ammunition and some projectiles and expended cartridges, was in the possession of the State's Attorney's Police and Police Crime Lab. The balance was found to be either in the control of attorneys for the survivors or still at the premises. Therefore, the Grand Jury undertook to establish whether the law enforcement agencies involved had conducted a complete and proper examination of the scene and had processed the evidence collected in a professional manner. A review of the evidence developed on this point follows.

Almost immediately after the shooting was over, various units of the Chicago Police Department responding to the 10-1 signal for police emergency, began to arrive at the apartment. Some of these men were directed to remove and transport the dead and wounded and to take the uninjured survivors to the 13th District. While this activity was underway, the State's Attorney's Police searched for weapons and evidence.⁷⁷

It should be pointed out that the flat is small, and is divided into six rooms connected by a hallway. A diagram of the apartment is attached as an appendix to this report. Besides the normal complement of furniture, there were a number of extra beds and mattresses and a large quantity of miscellaneous material stored in the apartment both loose and in boxes. One of the slugs had hit a gallon of paint in a closet and the paint was being tracked back and forth. In addition to the two dead and seven live occupants and the fourteen State's Attorney's Police, uniformed officers and supervisors were coming in and out to carry out their functions and just to see what had happened. All agree that the apartment was in a shambles and the official traffic was very congested.⁷⁸

The State's Attorney's Police conducted their search in this crowded and confused atmosphere. The search does not appear to have been very systematic or controlled. Detective Gorman tells of being so

keyed up from the shooting that as he attempted to lift a mattress and box spring to search under it, he threw it upside down on top of adjacent furniture.⁷⁹

As the officers found weapons and other potential evidence, they brought it into the living room and piled it on a mattress on the floor. Although Sgt. Groth gave no specific orders concerning the search, a system evolved whereby one or two officers remained in the living room and emptied each weapon as it was brought in. Some empty cartridge casings and loose ammunition were placed, unmarked, in a box adjacent to the mattress.⁸⁰ Some of the officers put expended cartridges from their own weapons into the box, but others threw their shells away at home when the weapons were emptied.⁸¹

The Task Force of the Chicago Police Department maintains men on duty around the clock. Some are specially trained as evidence technicians and respond to the scene of serious crimes to collect and preserve evidence. One such technician, on a routine assignment, on receiving first a transmission that a search warrant would be served at 2337 West Monroe, and a few minutes later that police assistance was needed there, proceeded to respond to that address. As he approached the apartment, he overheard some uniformed patrolmen discussing the incident. One of them said that Fred Hampton had been shot.⁸²

As the technician approached the door of the flat, another officer whom he knew requested that he get his camera and go inside to begin taking pictures. Inside, he found the place very crowded. As the technician was assembling his equipment, he was approached by a plainclothes officer, apparently one of Sgt. Groth's men, who told him "They shot through the back door and we want a picture of the hole in the back door." He was shown to the back door which was slightly open with a sheet hanging over the inside and directed to take a picture of a hole in the sheet as it was draped over the door, which he did. He did not move the sheet nor examine or photograph the covered portion of the door.⁸³

⁷⁹ Tr. XXV, pp. 225-226.

⁸⁰ Tr. XXIV, p. 83.

⁸¹ Sgt. Groth and Officer Carmody took their empty shells with them in their revolvers; Carmody threw his away (Tr. XXIV, p. 157; Tr. XXVI, p. 219). Officer Jones put his in his raincoat pocket and threw them in the box later in the day, unmarked (Tr. XXVI, p. 68).

⁸² Tr. XIV, p. 8.

⁸³ Tr. XIV, pp. 14-16. A later examination of the area of the door behind the sheet was made on December 4 by a member of the Mobile Crime Unit team; he found no bullet hole in the door behind the hole in the sheet (Tr. XVII, pp. 28-29). Apparently, this examination was not reported to the sergeant in charge of the team (Tr. XVI, p. 278).

⁷⁷ Tr. XXIV, p. 83.

⁷⁸ Tr. XXV, p. 270.

Next, the technician was directed by another plainclothes officer to photograph a living room wall which contained several news clippings relating to reports of police officers being shot by Panthers. He was also directed to photograph a disassembled weapon on a dresser in the living room. Without instructions to do so he then photographed the body lying between the dining room and south bedroom. This body had been identified to him by various plainclothes officers as that of Fred Hampton.⁸⁴ The technician says that although he saw the body in the living room, it was removed before he got a chance to photograph it.⁸⁵ (However, this testimony is directly contradicted by Sgt. Groth who says he instructed the technician to take photographs of Clark's body, watched while he took two or three of them and was later told by the Crime Lab that they did not turn out.⁸⁶) The technician took one more picture, one of the north bedroom, and was then relieved by a sergeant from the Crime Lab Mobile Unit who said his unit would complete the investigation. Although the preservation of fingerprints and the tagging of weapons and evidence are included in the duties of an evidence technician, he was not asked to perform such functions.⁸⁷ In fact, none of the weapons or other evidence picked up by the State's Attorney's Police were tagged or marked as to where and by whom found nor were any possible fingerprints preserved or taken.⁸⁸

The participating officers from the State's Attorney's Office were relieved to see the mobile team from the Crime Laboratory on the scene. As one of them put it:

I was relieved, because I felt they were going to make their plats and get the bullet holes, and pick up. I don't recall picking up a shell off the floor. My legs were aching. I don't know if I picked a shell off the floor.⁸⁹

Accordingly, shortly after the Crime Lab team arrived, the State's Attorney's Police put the weapons and other evidence they had recovered in the truck,⁹⁰ still without tagging or noting the recovery information, and returned to the office.⁹¹ Before leaving, Sgt. Groth

⁸⁴ Tr. XIV, pp. 18-22.

⁸⁵ Tr. XIV, pp. 18-19.

⁸⁶ Tr. XXIV, pp. 84-86.

⁸⁷ Tr. XIV, p. 24.

⁸⁸ Tr. XXIV, p. 112.

⁸⁹ Tr. XXV, p. 234.

⁹⁰ The space provided on standard inventory records which should indicate the name of the person from whom weapons were seized are mostly blank. One inventory did attribute a seized weapon to Brenda Harris. This was signed by an officer who had no knowledge of the seizure of this weapon. He affixed another officer's signature thereto (Tr. XXVI, pp. 129-131).

⁹¹ Tr. XXV, p. 238.

gave the Crime Lab team leader a description of what happened and this single instruction: "I told him to look for evidence of shots on this [west] side of the apartment."⁹²

The supervising sergeant of the Mobile Crime Lab team stated that his general responsibility was "... to photograph the scene as we find it, draw a rough sketch, search for and recover whatever evidence is available, mark it and transport it to the Crime Laboratory."⁹³ His team arrived about 5:15 a.m.⁹⁴ The sergeant acknowledged that in executing these responsibilities, his team was basically focused on identifying shots fired at the officers. Accordingly, the sergeant was first shown the living room door, which he inspected and had photographed. There was one clearly visible hole almost an inch in diameter with powder tattooing on the inside. Apparent above this hole on both sides of the door there was another damaged spot. The sergeant did not believe that it was all the way through, although he did not probe it nor did he form an opinion as to its cause.⁹⁵ On viewing an enlargement of a photograph, the sergeant agreed that the damage could have been caused by the passage of a bullet through the plywood panel at an angle leaving no clear hole because the outer layer of the panel snapped back into place.⁹⁶ Neither the door or the panel were removed for testing.

The sergeant next noted a hole in the southwest corner of the hallway outside the living room door. He found nothing in the hole and was unable to trace it because the upstairs occupants did not respond to his knock.⁹⁷

Returning to the living room the sergeant noted a hole high in the northwest corner. Nothing was recovered from this, the hole was not then probed, nor was a notation of it made in the field notes compiled by the team.⁹⁸ Also in the living room the sergeant observed many holes in the south wall. They were examined and appeared to be through

⁹² Tr. XXIV, p. 112.

⁹³ Tr. XIII, p. 44.

⁹⁴ Tr. XVI, p. 231.

⁹⁵ Tr. XIII, pp. 55-57, 64. In his field report, the sergeant stated: "Examination of the front door leading to the front room showed what appeared to be *shots* fired through it from the inside to the outside." (emphasis supplied) Tr. XVI, pp. 244-248; Exhibit 62, p. 2.

⁹⁶ Tr. XVI, p. 241.

⁹⁷ Tr. XIII, pp. 59-60.

⁹⁸ Subsequent probing of this hole by Crime Lab personnel was unproductive; although lab personnel considered this shot to have possibly been fired by the occupants at the police officers (Tr. XVII, p. 30). On March 8, pursuant to request of this Grand Jury, FBI agents probed the hole and recovered a .380 projectile which could not have been fired in any of the police weapons or seized weapons (Tr. XIX, pp. 34-37).

and through holes confirming the story of firing through the wall as related by the officers. Although a minority of the holes were not readily identifiable as entry or exit holes, the mobile team's notes do not indicate which ones were ambiguous.⁹⁹

Beneath a dresser on the west wall of the living room the sergeant recovered two spent 12 gauge Remington and Peters casings and one spent .45 caliber casing. These were placed in an evidence envelope and taken to the Crime Lab where the two shotgun shells were subsequently identified as having been fired from a seized weapon.¹⁰⁰ Nothing else was obtained by the Crime Lab from the living room, although subsequently other searchers obtained seven additional bullets and casings from this room.¹⁰¹ Although a Crime Lab picture taken at the time showed a bullet hole on the southeast wall of the living room, the Crime Lab office did not see this hole.¹⁰² The team also missed this hole on their later examination.¹⁰³

In the north bedroom the laboratory team noted holes in the north wall and some corresponding holes in the bedroom door when that door was placed in an open position. However, the sergeant's report of this examination incorrectly states:

Examination of the door to the front bedroom showed what appeared to be shots fired from in the bedroom out to the hall.¹⁰⁴

Although he had discovered this error by viewing pictures on December 5, no correction to this report had been made at the time of his testimony (Feb. 25, 1970) and the sergeant had not advised his superiors of the error.¹⁰⁵

The mobile team recovered no projectiles or shell casings from the north bedroom although twenty-seven projectiles and six casings were later found in that room. Other than two apparent shotgun blasts on the north wall that were ambiguous and which were not probed to determine the angle of fire, the mobile team found no indication that shots had been fired out of this room by the occupants. Their report does not indicate this fact.¹⁰⁶

⁹⁹ Tr. XIII, pp. 61-65.

¹⁰⁰ This identification was erroneous (*infra* p. 83).

¹⁰¹ Tr. XIII, p. 67; Tr. XX, p. 189.

¹⁰² Tr. XVI, pp. 248-251.

¹⁰³ Tr. XVII, pp. 25-26.

¹⁰⁴ Tr. XVI, pp. 262-263.

¹⁰⁵ Tr. XVI, pp. 262-263.

¹⁰⁶ Tr. XVI, p. 266; Exhibit 62.

In the dining room the team noted an apparent shotgun pattern high on the east wall and recovered two spent 12 gauge casings. The team did not note one bullet, three shells and two unfired bullets recovered later in that room.¹⁰⁷

In the south bedroom the team noted a number of through and through holes in the north wall, four shotgun patterns in the east wall, a hole in the eastern window frame and a number of holes in the south wall. They recovered the base of a 12 gauge casing and two spent bullets on the floor near the south wall. They also noted and probed with fingers some holes in the mattress with negative results. The team found no evidence of shots being fired from this room.¹⁰⁸

In the kitchen, the team found no shells, projectiles, or bullet holes. They examined a sheet hanging over the back door. Although the sheet had a hole in it, it could not be identified as a bullet hole nor were there any marks on the wall or door behind the sheet. Neither the sheet nor any portion thereof was removed for laboratory analysis of any residue near the hole. The team did not examine the porch, the steps leading upstairs past the kitchen window or the adjacent wall of the next building for possible bullet marks.¹⁰⁹

In summary, the sergeant testified that his crime scene investigation, which lasted a maximum of 90-95 minutes, revealed evidence of three shots that could possibly have been fired by the occupants: the deer slug hole in the living room door; and the two shotgun patterns in the middle of the north wall of the north bedroom on which the angle of fire had not been ascertained.

At the request of an Assistant State's Attorney, the sergeant and his team returned to the premises on December 17 and 18, accompanied by members of the Illinois Crime Commission, to attempt to recover the deer slug which had penetrated the stairwell to the second floor and to recover any other projectiles from the walls. On those days, the team did not locate the deer slug; it found and removed some wadding, buckshot and eight projectiles. The team also removed some buckshot from a tarpaper-covered porch on the adjacent premises.¹¹⁰

The following chart shows the ballistically identifiable evidence (projectiles and casings but not wads, shotgun pellets or fragments too small to identify) obtained by the Grand Jury from all sources and suggests the thoroughness of each search:

¹⁰⁷ Tr. XVI, p. 270.

¹⁰⁸ Tr. XVI, pp. 270-274.

¹⁰⁹ Tr. XVI, pp. 274-281.

¹¹⁰ Tr. XVI, pp. 292-299.

	Dates	Items recovered
State's Attorney's Police	12/4/69	62
Crime Lab Unit	12/4/69	7
Survivors Attorney	12/4/69 to 12/17/69	43
Crime Lab Unit	12/17/69 and 12/18/69	8
FBI	12/22/69 to 12/23/69 12/29/69 to 12/31/69 1/5/70 to 1/21/70 2/9/70 and 2/13/70 3/8/70	30
Other ¹¹¹	2/70	1
Total		151

There were no fingerprints taken from the seized weapons at the time they were obtained and because of repeated handling none were subsequently available.

The joint crime scene search by the three branches of local law enforcement—the State's Attorney Police, the duty evidence technician from the Task Force and the Mobile Unit from the Crime Lab, was conducted in a crowded situation in a high crime area under considerable pressure to get the job done. However, any crime scene investigation which uncovers barely half of the relevant evidence must be seriously questioned. The explanation for the limited work done by the Crime Lab team is clear. The sergeant in charge agreed that the crime scene investigation was conducted, not to obtain all the available evidence, but, to try to establish the authenticity of the account given by the raiding officers. In response to a juror's question the sergeant defended the scope of his inquiry in this way:

I believe it was done efficiently enough, ma'am. I felt at the time that the occupants of that apartment attempted to take the lives of the officers attempting to serve a legal search warrant. They met resistance. The Illinois State Statute states that being an arrest, legal or illegal, you are not [to] resist it.

Further facts that were uncovered in this case was that weapons had been recovered from this apartment, stolen Chicago Police Department shotgun, illegal sawed-off shotguns, I believe that the scene was adequately covered, yes, ma'am.¹¹²

¹¹¹ Removed from leg of Verlina Brewer.

¹¹² Tr. XVI, p. 306.

Superintendent of Police, James B. Conlisk, Jr., attributed the responsibility of the crime scene search directly to the State's Attorney:

We were directed by the State's Attorney's police that they, the State's Attorney's police, would collect all this evidence, they would handle everything.

Our Crime Laboratory people were told not to collect any further evidence other than the minute amount they did.

* * * * *

I have been informed by the Director of the Crime Detection Laboratory that the mobile Crime Lab person who works for him was directed by Sergeant Groth, that he, Sergeant Groth and his men would handle everything.¹¹³

¹¹³ Tr. XXIX, pp. 41-42.

G. *The Panther Investigation*

On December 4, 1969, at approximately 7:30 a.m., the police guards posted at the premises departed.¹¹⁴ A short time thereafter, Francis E. Andrew, an attorney for the Black Panther Party, came to examine the scene.¹¹⁵ In conjunction with Andrew's examination of the scene, an independent film maker was employed to take extensive movies of the premises and of Andrew conducting the investigation.¹¹⁶ When the Grand Jury subpoenaed these films, Andrew resisted on the ground that the film was a work product of an attorney and covered by the attorney-client privilege of the persons in the apartment charged with state crimes.¹¹⁷ The Court ruled, however, that "... the right of the Grand Jury, the Federal Grand Jury, to exhaustively inquire into any possible violation of Federal law unrelated to the charges pending in the State Court ... is paramount to the work product privilege, even if one exists."¹¹⁸ The movies¹¹⁹ proved of considerable assistance to the Grand Jury in its attempt to reconstruct the condition of the premises on December 4. They depict Mr. Andrew and his associates collecting physical evidence at the site and establish locations for various furnishings and other materials.

In addition to the movies, Andrew set up a system for the controlled recovery of over 100 items of evidence including 64 projectiles, pellets, wads and empty shells. A card was prepared for each item showing the description of the item, the location of recovery, and the name of the person finding it. Each item was placed in a separate container and assigned an evidence number. A chain of custody of each item was maintained on the cards.¹²⁰

Although Andrew was apprised in the latter part of December 1969 that the Grand Jury investigating this incident would first attempt to collect all physical evidence recoverable and was requested to produce all physical evidence in his possession,¹²¹ it was not produced volun-

tarily. Finally in late January, after a subpoena had been issued and a Court order directed the production of all the physical evidence in his possession, Andrew delivered all such items to the FBI as custodian for the Grand Jury. The items were promptly shipped to the FBI Laboratory for analysis.

In addition to retaining a film maker, Andrew also retained a physical evidence expert to make an examination of the premises.¹²² After being briefed on Andrew's view of the case, the expert spent approximately fourteen hours in examination of the premises on December 8. During portions of this time, the Black Panther Party was conducting tours of the premises. The expert retrieved various items of physical evidence, including the projectile which was fired from within the apartment through the living room door. This projectile was found on the staircase to the upstairs apartment, just below an apparent impact point on the west wall of the staircase.¹²³ The expert also found a projectile which had struck the southeast wall of the living room and could have been fired through the living room door, partially open.¹²⁴ While some of his contributions were significant, the expert's testimony revealed his defense orientation, perhaps accentuated by the limited time he had and the briefings of counsel. For example, he proposed an imaginative theory as to who fired the first shot based upon the position of the living room door and the assumed trajectories of the incoming and outgoing rounds. He illustrated that if the door was opening at the time of the first of two closely spaced shots, the incoming shot would have to be fired before the shotgun blast from within the apartment. However, if the door was closing, then the shotgun blast from within the apartment preceded the shot from outside the door.¹²⁵ The expert stated that his opinion on who fired the first shot would be based on prior testimony establishing whether the door was opening or closing at the time.¹²⁶ His theory excluded any other movements of the door, i.e. it could have been kicked open and bounced back. In addition, his opinion that a deer slug shotgun blast through a door at close range would not cause it to move seemed strained to the Jury and was later contradicted by FBI tests on a similar door.¹²⁷

The expert also retrieved various other projectiles for study.¹²⁸ He noted a bullet hole in the upper northwest corner of the living room wall, but did not attempt to recover any projectile. He was told

¹¹⁴ Tr. XIII, p. 204.

¹¹⁵ Tr. VIII, p. 180; Exhibits 24, 54.

¹¹⁶ Tr. V, p. 146.

¹¹⁷ Tr. of Proceedings, Re: Michael Gray, 69 GJ 3144 dated January 7, 1970 at p. 3.

¹¹⁸ *Ibid.*, at p. 27.

¹¹⁹ Exhibits 24, 54; Group Exhibit 1.

¹²⁰ Exhibit 43; Exhibits 24, 54; Exhibit 103.

¹²¹ Tr. IV, p. 22.

¹²² Tr. V, p. 51.

¹²³ Tr. V, p. 99.

¹²⁴ Tr. V, pp. 149-150.

¹²⁵ Tr. V, pp. 120-121.

¹²⁶ Tr. V, p. 127.

¹²⁷ Tr. XIX, pp. 56-57.

¹²⁸ Exhibit 26.

that the hole had been made by an accidental discharge sometime prior to December 4, 1969.¹²⁹ He did not attempt to examine any of the furniture except for one mattress and one dresser of the apartment for possible bullet damage.¹³⁰

The expert attempted to establish the trajectories of the bullets fired by placing dowels in holes in the walls. He did not find any physical evidence indicating gunfire by the occupants of the apartment except the hole in the living room door.¹³¹

The Black Panther Party investigation also included the retention of a private pathologist who on December 5, 1969, performed a second autopsy on the body of Fred Hampton. Again, before beginning his work, this pathologist was briefed as to the defense theory that Hampton was intentionally murdered. This second autopsy is discussed in detail under the section covering the cause of death.

One of the significant impressions the Grand Jury obtained from parts of the investigation conducted by the survivors' attorneys—and, indeed, from parts of the official investigation as well—was the extent to which the predisposition of the individuals conducting the investigations affects the result. Any investigation that is designed to prove a theory rather than establish the facts has to be thoughtfully scrutinized and should not be accepted as objective without such scrutiny.

¹²⁹ Tr. V, pp. 139–141.

¹³⁰ Tr. V, p. 192.

¹³¹ Tr. VI, pp. 25–28.

H. How Hampton Died—Pathology and Toxicology

One of the public controversies that surrounded this case concerned the conflicting pathological analyses on the body of Fred Hampton. The coroner's findings, released in fragments in the press and totally at the inquest, found that Hampton had been shot twice in the head, once in the left shoulder and grazed once on the right forearm. The coroner's protocol concluded that one of the head wounds proceeded from left to right entering in front of the left ear and existing from a large wound in the right forehead. The other entered from the right side of the neck, below the right ear and exited from the left side of the throat. The head wounds were through and through. The left shoulder wound was probed and a .30 caliber carbine bullet was recovered from the left pectoral muscles and turned over to the Chicago Police Crime Laboratory.¹³² The pathologist from the coroner's office who performed the autopsy testified before the Grand Jury that he had opened the stomach of the corpse and examined its contents. Finding them to be fluid, he did no analysis upon the contents.¹³³

The second autopsy was performed by a private pathologist who formerly had been the coroner's chief pathologist. This autopsy was performed at a funeral home in the presence of several other doctors and one of the survivors' defense counsel.¹³⁴ Although the pathologist inquired of the coroner's office for a description of the wounds found in the official autopsy, it was not provided, and the second autopsy proceeded without any knowledge of what the coroner had found except that gained from press reports. The press had indicated, incorrectly, that the coroner had recovered no bullets.

The second autopsy concluded that Hampton had been hit twice in the head, both shots entering on the right side at approximately the same angle from above and slightly to the rear of the subject. One shot entered directly in front of the right ear and exited from the left side of the throat. The other entered on the right forehead and was probed to a point behind the left eye. No exit for this wound was located. The second autopsy also classified the left shoulder wound as a graze which had not penetrated.¹³⁵ A toxicologic study of blood

¹³² Exhibit 3.

¹³³ Tr. VII, p. 159.

¹³⁴ Tr. IV, pp. 78–79.

¹³⁵ Tr. IV, pp. 82, 90, 96, 97.

samples collected at the second autopsy indicated high concentrations of the drug seconal (secobarbital), about the level of 4.5 milligrams percent.¹³⁶

The doctor conducting the second autopsy explained his findings at several press conferences in the presence of defense counsel Andrew. He took sharp exception with reports that the coroner had recovered no bullets from the body, suggested that a bullet must have been removed from behind the left eye, and indicated that Hampton's wounds were consistent with being shot from above and behind while in a reclining position.¹³⁷ The pathologist also gave his opinion that the level of seconal present in the body would have placed the subject in a deep stupor.¹³⁸

These reports, especially the alleged presence of drugs, were widely published in the media together with comments from Panther leader Rush and others that this fact proved the assassination theory.¹³⁹

Shortly thereafter, the coroner's office announced that an analysis of samples of Hampton's blood retained from its autopsy showed that no seconal was present.¹⁴⁰

The Grand Jury undertook to unravel these problems in several ways. First, it subpoenaed all of the pathologists, chemists and supporting personnel who had participated in the autopsies together with their photographs, X-rays and reports and heard the analysis of each. Second, it ordered that the retained blood samples from both autopsies should be submitted to the FBI Laboratory for a complete serological study. Finally, when it became apparent that the conflicting findings were irreconcilable from available evidence, it obtained an order of exhumation and commissioned Dr. Charles Petty, Chief Medical Examiner for the County of Dallas, to perform a third autopsy in the presence of physicians and attorneys representing the Coroner and the Hampton family.

The expert from the FBI Laboratory testified that he had conducted the most specific and sophisticated test known for secobarbital—gas chromatography—on all of the blood samples submitted. There was no such drug found. In reviewing the materials submitted by the private toxicologist, he attributed the mistaken finding to the deterioration of the blood in the submitted sample, and the reliance

¹³⁶ Tr. IV, p. 110; Tr. IX, p. 20.

¹³⁷ *Chicago Sun Times* 12/9/69.

¹³⁸ Tr. IV, p. 122.

¹³⁹ *Chicago Sun Times* 1/7/70.

¹⁴⁰ *Chicago Sun Times* 1/15/70.

on the subjective evaluations required in the type of testing—ultra-violet spectrophotometry—used.¹⁴¹

The autopsy conducted by Dr. Petty at the Shreveport, Louisiana Veterans Hospital, with Grand Jury attorneys present, was extraordinarily thorough. An X-ray study of the entire body was made, and color and black and white photographs were taken at every stage of the examination. This autopsy conclusively confirmed the findings of the FBI and the coroner's chemist that there was no trace of drugs in the body through extensive cultural analyses of the stomach, kidneys, liver, brain and other organs; samples of these organs were contemporaneously obtained by the Hampton family pathologist and the coroner's pathologists.¹⁴² The pathologist from the coroner's office misrepresented the autopsy procedures which he followed by stating that he had opened the stomach and examined its contents;¹⁴³ in fact, at the time of the February 16, 1970 autopsy, the stomach was untouched and was attached to the esophagus on one end and to the bowel on the other end.¹⁴⁴

This autopsy also put to rest any speculation over the number and type of wounds Hampton had received. As both examinations had found, two shots did strike his head. The private pathologist had correctly found that both shots had entered at an angle from the right side. However, the path of the bullet which entered the right forehead did not terminate behind the left eye, as found at the second autopsy, but exited in front of the left ear.¹⁴⁵ The exit wound was clearly visible after the subject's sideburns had been shaved off. The shoulder wound was found to have penetrated as the coroner's report described, and there was evidence of the path of this bullet into the left pectoral muscle where the coroner described the recovery of a .30 caliber carbine bullet.¹⁴⁶ The coroner's report erroneously described the second entry wound in the head as being "in the right aspect of the neck at 5 cm below the lobule of the ear and 15 cm from the midline." In fact, this wound was on the right cheek just in front of the ear.¹⁴⁷

In view of the considerable number of discrepancies between both earlier autopsies and the one commissioned by the Grand Jury, it is

¹⁴¹ Tr. XI, pp. 3, 7-12, 26-28; Exhibit 56. The toxicologist who performed the tests, for the private autopsy was aware of the gas chromatography method of testing, but was out of gas and could not perform the test. (Tr. IX, p. 38).

¹⁴² Tr. XVI, pp. 5, 22; Exhibits 75, 76, 77.

¹⁴³ Tr. VII, p. 159; Exhibits 75, 76, 77.

¹⁴⁴ Tr. XVI, p. 11; Exhibits 75, 76, 77.

¹⁴⁵ Tr. XVI, pp. 15-19; Exhibit 75.

¹⁴⁶ Tr. XVI, p. 13.

¹⁴⁷ Compare Exhibit 3 and Exhibit 75 and accompanying photographs.

useful to examine the procedures used and to undertake an analysis of how the various errors were transformed into public controversy.

The Cook County coroner is charged by Illinois law with the responsibility of conducting an autopsy the circumstances concerning the death are suspicious, obscure, mysterious and in the opinion of the examining physician and the coroner the cause of death cannot be established definitely except by autopsy."¹⁴⁸

There are three certified pathologists employed full time in the Cook County Coroner's Office. In addition, there are two assistants taking advance training in pathology who assist on weekends and a junior or assistant pathologist. The latter is a full time employee earning \$27,000 annually. He graduated from medical school in Athens, Greece in 1957, came to the United States in 1958 where he interned and practiced pathology until 1964. From 1965 to 1967 he was senior pathologist in the Cook County Hospital Department of Pathology and transferred to the Coroner's office in June 1969. This doctor is not yet licensed in Illinois but is able to practice under the supervision of other doctors on a special or temporary license pending licensure. Under his limited license he is not permitted to sign death certificates or autopsy protocols. In practice, he performs autopsies, dictates the findings and reviews them with the certified doctors who actually sign them. He estimates he performs 85 autopsies monthly.¹⁴⁹

The assistant director of pathology testified that his organization is seriously understaffed. For example, on December 4, 1969, he performed five autopsies and appraised six other bodies to determine if an autopsy was required. In addition, he tried to supervise the assistant pathologist who performed two autopsies on his own. These two were Fred Hampton and Mark Clark.¹⁵⁰

With the aid of a diener (autopsy assistant) and in an examining room next door to the assistant director, the assistant pathologist examined Hampton. According to his usual practice, he later dictated some notes into a dictating machine. On Sunday, December 7, because of the great public interest in the case and at the request of the acting director of pathology, he went into the office to write up his report. This handwritten report was delivered to the acting director who personally revised, edited and typed it up. This report went through several drafts. At one point the director searched unsuccessfully for the original dictabelt recording of notes, but it was lost or destroyed.

¹⁴⁸ S.H.A. Ch. 31, section 10.2.

¹⁴⁹ Tr. VII, pp. 56-75, 156; Tr. VIII, p. 16.

¹⁵⁰ Tr. VII, pp. 60-61.

The final version of the protocol, signed by the acting director, was dated December 12, 1969.¹⁵¹

The coroner's office does not take any photographs of the bodies during autopsy. One identification photograph is taken of each body before autopsy and if others are required, the Chicago Police Crime Lab is called in. Neither the Crime Lab photos nor the identification photos of Hampton were useful in resolving the disputed issues.¹⁵²

Similarly, the coroner's office does not X-ray bodies to locate foreign matters. There is available a fluoroscope which was used by the diener outside the presence of the pathologist to determine if there were any significant additional materials in Hampton's body.¹⁵³ In fact, the dieners appear to share a considerable number of responsibilities with the pathologist. The diener, for example, not the pathologist, traced the path of Hampton's shoulder wound and recovered the bullet. The acting director had high praise for the dieners:

I might state, as far as bullet wounds are concerned, we make a little bit of a game of bullet wounds, especially when they are peculiar. We try to trick the dieners and the dieners try to trick us time and again to make a statement, and then prove us wrong.

All I can say is these boys are tremendous on identifying bullet wounds as entries or exits, and they are tremendous on finding bullets.¹⁵⁴

The major problems in the coroner's findings appear to be based on the understaffing which required the examination to be conducted by a pathologist of restricted licensure without the direct supervision of a certified pathologist. Fortunately, the misdescription of the right head wound and the erroneous classification of the left forehead entrance wound as a wound of exit, does not seem to have had a substantive effect in this case.

The chemical analysis of Hampton's blood was also done in the coroner's office.¹⁵⁵ It appeared to be a professional and competent job and reached a correct result.

The errors in the second autopsy are harder to understand. The principal pathologist was assisted and observed by two pathologists, a physician and a medical student. It seems incredible that all of them could have missed the exit wound near the left ear. This mistake combined with the mistaken drug analysis, the erroneous classification

¹⁵¹ Tr. VII, pp. 137-139; Exhibits 3, 39, 40.

¹⁵² Tr. VIII, p. 38.

¹⁵³ Tr. VIII, p. 144.

¹⁵⁴ Tr. VIII, pp. 123-124.

¹⁵⁵ Tr. VIII, pp. 50-75; Exhibit 10.

of the shoulder wound as a graze, the confusion over the recovery of a bullet by the coroner and the defense counsels' predilection for accusatory press conferences, contributed significantly to exacerbating community tension. Plainly, a careful and objective approach to the second autopsy could have prevented this unnecessary conflict over the cause of death.

I. *The Internal Inspections Division Investigation*

The Internal Inspections Division of the Chicago Police Department is under the command of Deputy Superintendent John Mulchrone, who reports directly to Superintendent James B. Conlisk, Chief Executive Officer of the Chicago Police Department. The Director of IID, Captain Harry Ervanian, reports directly to Deputy Superintendent Mulchrone. As Deputy Superintendent Mulchrone stated it:¹⁵⁶

The purpose and the function of the IID is to investigate the Chicago police department and find, root out any wrongdoing or illegal activities being conducted, to take complaints from citizens, from other members of the department, and investigate these complaints and arrive at conclusions based on facts.

As a routine matter, an IID investigation is commenced by assigning a "U" (for undercover)¹⁵⁷ number to each instance of a shooting of a citizen by a police officer,¹⁵⁸ or a "CR" (for complaint register) number to each incident of citizen complaint.¹⁵⁹ This routine was followed in this matter; U-69-53 was assigned as soon as this incident was reported and an investigation was initiated.¹⁶⁰ The investigation was immediately suspended because of a question of jurisdiction of IID over State's Attorney's Police.¹⁶¹

After the investigation had been suspended, Superintendent Conlisk was called by Mr. Hanrahan who asked him to undertake an investigation of the matter.¹⁶² This was a unique situation in Superintendent

¹⁵⁶ Tr. XXVIII, pp. 269-270.

¹⁵⁷ Tr. XXVIII, p. 24.

¹⁵⁸ Tr. XIII, p. 116; Tr. XXVIII, pp. 24, 186.

¹⁵⁹ Tr. XXVIII, p. 24. Many IID examinations result in findings of unsubstantiated charges against officers; the former head of the Excessive Force Unit of IID for over a year (Tr. XXVII, p. 177) could only recall one instance of hundreds during his tenure, of a shooting by police in which the officer was held at fault (Tr. XXVIII, p. 213). In that instance, an officer responding to a rape victim's call fired his weapon through the door and killed the complainant (Tr. XXVIII, pp. 213-214).

¹⁶⁰ Tr. XIII, pp. 116, 138.

¹⁶¹ Tr. XIII, pp. 116-118; Tr. XXVIII, pp. 220-221.

¹⁶² Tr. XXIX, pp. 7-8.

Conlisk's experience.¹⁶³ Superintendent Conlisk directed Deputy Superintendent Mulchrone to conduct ". . . a complete, comprehensive investigation of the facts."¹⁶⁴

When the investigation was completed, a summary report was written by Director Ervanian on December 19, 1969.¹⁶⁵ Director Ervanian's report concludes:¹⁶⁶

Physical evidence has fairly established that the occupants of the premises in question fired upon the officers who were in the process of executing the search warrant.

* * * * *

There is no apparent misconduct or impropriety by any of the officers involved in the incident. The evidence shows the officers were in the process of lawful execution of a search warrant issued by a judge of the Circuit Court of Cook County. Purpose of the warrant was to seize certain illegally possessed weapons which were in fact found. The officers were met with deadly force in the form of gunfire. The officers were both obligated and lawfully justified in countering this deadly force with such force as was necessary to overcome the resistance to protect their own lives and to execute the command of the search warrant.

This investigation is classified as exonerated and recommended that no complaint register number be issued.

Early in the Grand Jury's investigation of this matter, the files of the IID investigation were obtained by subpoena.¹⁶⁷ These files were reviewed in detail and seemed to contain limited information. The files contained pictures of the scene and morgue photographs of the deceased, hospital pictures of the injured, medical reports, seized property inventory sheets, reports of patrol cars responding to the 10-1 (police emergency) signal on December 4, and records of contacts made with defense counsel for the arrested survivors of the raid. There were no records of contact with neighborhood residents, no indication of a visit to the premises, no ballistic analysis of the officers' weapons compared to the recovered bullets and empty shells, and no detailed or substantive accounts of the incident by the fourteen individual officers, although the latter appeared for questioning at the IID on December 16, 1969.¹⁶⁸

¹⁶³ Tr. XXIX, p. 8.

¹⁶⁴ Tr. XXIX, p. 14.

¹⁶⁵ Tr. XIII, p. 119.

¹⁶⁶ Tr. XIII, pp. 120-121.

¹⁶⁷ Exhibit Group 6, Items No. 1-120.

¹⁶⁸ Tr. XIII, pp. 119-120.

Because the IID files seemed sparse, the Grand Jury inquired as to the scope of the investigation. A police sergeant of the Excessive Force Section appeared before the Grand Jury and testified that he had participated in the investigation by obtaining various records and monitoring recordings of police radio transmissions.¹⁶⁹ His responses to queries as to his inquisitorial participation in the inquiry are revealing:¹⁷⁰

Q. Did you do anything else in the investigation?

A. Then on the 16th of December I participated in interrogation of the officers involved in the raid at that address.

Q. What instructions did you have with respect to that interrogation?

A. My instructions were, and this was the 16th of December, somewhere around . . . 7:00 or after, and our instructions were that we were handed a piece of paper with questions that were to be asked of the officers that we were to interrogate.

Q. Who handed you the piece of paper?

A. My lieutenant, Mr. Kukowinski handed me the piece of paper.

Q. Do you know where he got it?

A. From Director Ervanian. I was to follow the format on this paper. And I sat in a room with a court reporter and three or four officers, I don't recall who or how many and I interrogated and I followed this format in this investigation.

Q. You asked no questions other than those questions on the written instructions?

A. That is correct.

In order to follow up this issue, the Grand Jury called Assistant State's Attorneys and ranking officers of IID to describe the conduct of the interrogation of the fourteen officers.¹⁷¹

It developed that after Superintendent Conlisk ordered the IID to proceed with the investigation, Deputy Superintendent Mulchrone called upon Sgt. John Meade, an attorney who is a former Assistant State's Attorney and Chicago policeman, to advise him.¹⁷² Deputy

¹⁶⁹ Tr. XIII, pp. 156-158.

¹⁷⁰ Tr. XIII, pp. 158-159.

¹⁷¹ Tr. XIII, pp. 160-190; Tr. XXVIII, pp. 16-273; Tr. XXIX, pp. 1-87.

¹⁷² Tr. XXVIII, pp. 223-227.

Superintendent Mulchrone said that he and Sgt. Meade agreed to limit the investigation to two issues:¹⁷³

No. 1, did the police officers have a legal right to go into that apartment. And No. 2, did they have a legal right to use deadly force.

Deputy Superintendent Mulchrone concluded that this issue defined the scope of IID responsibility in this matter.¹⁷⁴

Lt. Robert Kukowinski, former head of the Excessive Force Unit of IID, testified that the conduct of the investigation was taken from its normal course in his hands by Deputy Superintendent Mulchrone who told him to deviate from normal procedures.¹⁷⁵ He testified:¹⁷⁶

Q. What was the reason for Superintendent Mulchrone or what reason was given for Superintendent Mulchrone taking over the investigation?

A. I don't think he gave a reason to me. There may have been a reason but I don't think he gave it to me. The reason was that he wanted an investigation conducted the same way amongst all the people who were going to be interviewed. That is what I got out of it.

Sgt. Meade's knowledge of this matter was based primarily upon his review of the TV re-enactment.¹⁷⁷ He prepared a list of questions to be propounded to each officer, designed to effect the scope of responsibility.¹⁷⁸ These questions and a statement for Sgt. Groth were written out in longhand, typed and then mimeographed, on December 16.¹⁷⁹ Then Deputy Superintendent Mulchrone, Sgt. Meade, Sgt. Groth and three Assistant State's Attorneys, including Mr. Jalovec, discussed the questions and answers between 5:30 and 7:00 p.m.¹⁸⁰ Asked to describe the role of the three Assistant State's Attorneys at this phase of the IID proceeding, one of them, Mr. Meltreger, classified them as "observers."¹⁸¹ Mr. Meltreger was satisfied that the pro-

¹⁷³ Tr. XXVIII, p. 223.

¹⁷⁴ Tr. XXVIII, pp. 93, 223-224.

¹⁷⁵ Tr. XXVIII, p. 188.

¹⁷⁶ Tr. XXVIII, pp. 191-192.

¹⁷⁷ Tr. XXVIII, p. 95.

¹⁷⁸ In his testimony before this Grand Jury, Sgt. Meade did not mention that the questions were accompanied by proposed answers; it appears that proposed answers were tendered with the questions (Tr. XXVIII, pp. 107-109, 114, 246). The Grand Jury asked Sgt. Meade to produce a retained copy of the format he had prepared. Sgt. Meade advised attorneys for the Grand Jury that no copy of the format could be found in his files.

¹⁷⁹ Tr. XXVIII, pp. 36-39.

¹⁸⁰ Tr. XXVIII, pp. 34, 40-43.

¹⁸¹ Tr. XXVIII, p. 135.

cedures he saw constituted a "... proper investigation."¹⁸² Mr. Sorosky, the other assistant present besides Mr. Jalovec, concurred that the Assistant State's Attorneys' participation was observation and that the IID procedure constituted a fair and honest investigation.¹⁸³ However, Deputy Superintendent Mulchrone, Director Ervanian and Sgt. Meade understood that Messrs. Jalovec, Meltreger and Sorosky represented the fourteen police officers as attorneys.¹⁸⁴

Apparently the system of interrogation was decided between Sgt. Meade and the Assistant State's Attorneys.¹⁸⁵ Sgt. Meade's questions and answers were designed to spell out the result of the inquiry.¹⁸⁶ Sgt. Meade asked the Assistant State's Attorneys to review the questions and answers to see if any were improper.¹⁸⁷ Assistant State's Attorney Jalovec reviewed the questions and answers with the other Assistant State's Attorneys and agreed they were proper; Sgt. Groth examined and altered the questions and answers after Mr. Jalovec arrived.¹⁸⁸

When the other thirteen officers arrived, the Assistant State's Attorneys conferred with them privately and briefed them as to the nature of the questions, advising them that there was nothing improper about them.¹⁸⁹ Thus, each officer knew the questions he would be asked before he was examined by the IID.¹⁹⁰

Sgt. Meade's method of inquiry was to obtain Sgt. Groth's agreement on his statement and the summary questions, and then to obtain agreement from the other thirteen officers with Sgt. Groth.¹⁹¹ Sgt. Meade told Sgt. Groth he did not need to accept the answers as his own;¹⁹² Sgt. Groth agreed that Sgt. Meade's answers were substan-

¹⁸² Tr. XXVIII, p. 136.

¹⁸³ Tr. XXVIII, pp. 158-162.

¹⁸⁴ Tr. XIII, p. 172; Tr. XXVIII, pp. 41, 246-248.

¹⁸⁵ Tr. XIII, p. 171.

¹⁸⁶ Tr. XXVIII, pp. 107-109.

¹⁸⁷ Tr. XXVIII, pp. 111-112. Mr. Jalovec deleted one question upon reviewing Sgt. Meade's format. In substance, the deleted question was intended to show that the officers were represented by counsel who had advised them of their rights (Tr. XXVIII, pp. 58-59).

¹⁸⁸ Tr. XXVIII, pp. 110, 113-114.

¹⁸⁹ Tr. XXVIII, pp. 59, 116-117. The practice of the IID, in instances where officers are represented by counsel, includes this right to private consultation and, on occasion, includes advising counsel of the questions which will be asked of the officer (Tr. XXVIII, p. 202). In represented cases, counsel may also be present during the interrogation; this procedure was declined by Mr. Jalovec, and the Assistant State's Attorneys were not present during the examination of the officers (Tr. XXVIII, p. 59).

¹⁹⁰ Tr. XXVIII, p. 59.

¹⁹¹ Tr. XIII, p. 164; Tr. XXVIII, pp. 114-115; Exhibit 6, Items 90-103.

¹⁹² Tr. XXVIII, p. 115.

tially accurate.¹⁹³ Sgt. Meade described the purpose of the questions as follows:¹⁹⁴

Q. Would it be fair to say that in drawing up your questions you took the version of the officers as being a truth, is that correct?

A. That is correct.

* * * * *

Q. Were there questions in your list of questions that tended to test the truth and veracity of these officers?

A. No, I assumed that everything they said was true.

Asked for his views on the procedures of this IID investigation, Sgt. Meade testified:¹⁹⁵

From my experience, Counsel, I consider this to be an excellent investigation.

No one in the IID ever had a complete story of the incident from each of the fourteen officers involved.¹⁹⁶

After the conclusion of this questioning, the IID report was concluded and a press release was prepared by Deputy Superintendent Mulchrone.¹⁹⁷ This release was rewritten and released by Superintendent Conlisk.¹⁹⁸ The resultant newspaper article reads:¹⁹⁹

"The investigation has clearly established the following facts: "1. The police officers were acting pursuant to the lawful direction of a search warrant.

"2. The police were subjected to deadly assault by firearms, which is a forcible felony, and exercised lawful means to overcome the assault."

Deputy Superintendent Mulchrone testified that it was not standard procedure to give an investigative subject copies of questions and proposed answers in advance of interrogation.²⁰⁰ However, he concluded that "... we conducted an investigation, as best we could, under the circumstances . . ." ²⁰¹ The investigation was admittedly limited, he said, "to preserve the evidence" for the state trial.²⁰²

¹⁹³ Tr. XXVIII, p. 116.

¹⁹⁴ Tr. XXVIII, p. 86.

¹⁹⁵ Tr. XXVIII, p. 50.

¹⁹⁶ Tr. XIII, pp. 183-184.

¹⁹⁷ Tr. XXVIII, pp. 258-259.

¹⁹⁸ Tr. XXVIII, p. 259; Tr. XXIX, pp. 22-23.

¹⁹⁹ Exhibit 94.

²⁰⁰ Tr. XXVIII, p. 246.

²⁰¹ Tr. XXVIII, p. 273.

²⁰² Tr. XXVIII, p. 264.

Superintendent Conlisk was informed of the system of interrogation described above when he appeared before the Grand Jury. He was aware that the questions to be asked the officers might have been discussed with the Assistant State's Attorneys who appeared for the conference. When Superintendent Conlisk was told by the Grand Jury that proposed answers, as well as the questions, had been prepared by Sgt. Meade and discussed with Sgt. Groth and the Assistant State's Attorneys, he said: "... I am flabbergasted to think that such a thing could exist."²⁰³

Captain Harry Ervanian, Director of IID, testified that neither he nor anyone in his office had received any pressure from anybody in the police department, or elsewhere, in this matter.²⁰⁴ He testified that the circumstances of the incident had not been developed "... with any great degree of accuracy . . ." and that he had not carried out his duty as Director of IID.²⁰⁵ Responding to further inquiries, he testified as follows:²⁰⁶

A JUROR: Do you consider this a normal investigation?

THE WITNESS: No, sir, this was not a normal nor a complete investigation.

* * * * *

Q. Captain, let's be candid—now, with the State's Attorney's office represented at this meeting, and the man who led this raid, or the service of this warrant, and the way the questions were drafted, and the ultimate questions which were actually asked of these officers, Captain, do you think it would be any way unfair for a reasonable person to come to the conclusion that this was nothing but a whitewash?

A. The way you describe it, no, sir.

* * * * *

Q. Again, Captain, do you think it would be unfair or unreasonable for a person to come to the conclusion, even adding the facts of the crime lab report, that this was a whitewash?

A. I would agree, sir, that this was a very bad investigation, yes, sir.

* * * * *

²⁰³ Tr. XXIX, pp. 15-17.

²⁰⁴ Tr. XIII, p. 147.

²⁰⁵ Tr. XIII, pp. 138-139.

²⁰⁶ Tr. XIII, pp. 174-177.

Q. Well, it was extremely bad, wasn't it?

A. Yes, sir.

Q. As a matter of fact, have you seen one as bad as this one?

A. No, sir.

J. The Coroner's Inquest

Article X, Section 8 of the Illinois Constitution provides that each county of the State shall elect a Coroner for a four-year term. The duties and functions of the Coroner are specifically prescribed by statute.²⁰⁷

The statute governing the Coroner's basic function, that of holding inquests, requires him to make a preliminary investigation of the cause of death in five situations: (1) sudden or violent deaths, whether apparently suicidal, homicidal, or accidental; (2) deaths (whether of the mother or fetus) due to abortion, as well as deaths caused by a sex crime or a crime against nature; (3) deaths under mysterious circumstances or from undetermined causes; (4) deaths to which alcoholic or narcotic addiction may have contributed; and (5) deaths occurring without medical attention.²⁰⁸ In the first of these situations the Coroner *must* summon a jury of six persons for the conduct of the inquest into the cause of death; in the other cases enumerated he may summon a jury. The Coroner also has power to compel the attendance of witnesses, and must see to it that their testimony is either written out and signed by them or transcribed in shorthand. Upon completion of an inquest the Coroner is required to make a record thereof and to issue a death certificate in the manner prescribed by law.²⁰⁹

The Coroner's inquest is *ex parte* in the sense that there is no absolute right in any private party to be represented by counsel at the inquest or to cross-examine the witnesses who appear and testify. In the course of holding that the Coroner is a nonjudicial officer and that the inquest verdicts are merely advisory, the Illinois Supreme Court stated that no one is a party to a Coroner's inquest, and that no one has a right, either personally or by counsel, to participate in the selection of the Coroner's jury, or to cross-examine witnesses to disprove testimony offered at the inquest.²¹⁰ Coroner Andrew J. Toman announced that cross-examination of witnesses would be permitted at the

²⁰⁷ S.H.A. Ch. 31, Sections 1-29.

²⁰⁸ S.H.A. Ch. 31, Section 10.

²⁰⁹ S.H.A. Ch. 31, Section 10.4.

²¹⁰ *Peoria Cartage Co. v. Industrial Board*, 284 Ill. 40 (1918).

inquest of the shooting deaths of Fred Hampton and Mark Clark because of sharply differing versions of the death accounts.²¹¹

Because of widespread publicity given to the December 4, 1969 incident in which Fred Hampton and Mark Clark met sudden and violent deaths, Coroner Toman announced the appointment of a special coroner and six "blue ribbon" jurors to hear evidence presented at the inquest and make a determination as to the cause of death. Martin S. Gerber, an attorney, was named to act as the special Coroner.²¹²

Gerber immediately held a press conference and was quoted as stating, "I'm not going to allow any outbreaks or outcries. I want to stay within the bounds of the law. The purpose of the inquest is to determine the medical cause of death factually and to determine whether any criminality was involved. An inquest is not to prove a crime. It is not a prosecution. Rather, it is an inquiry." ²¹³

The inquest commenced on January 6, 1970 and on said date the *Chicago Sun Times* featured a story entitled "Panthers to Remain Silent at Inquest." The article described how the Coroner's office would persist in asking questions of the occupants of the apartment and Martin S. Gerber was quoted as saying, "If there is not a full hearing, only those who refuse to testify will be responsible." ²¹⁴

The inquest lasted twelve days and security surrounding the inquest was tight with fifty deputy sheriffs stationed in the courtroom. The fourteen police officers testified and scientific evidence was presented. Neither of the experts retained by the Black Panther Party was asked to testify.

In substance, all the police officers testified that after announcing their office and seeking entrance to the apartment, they were fired upon from within. The officers returned the fire, several times pausing to call for surrender. The occupants shouted "shoot it out" and continued to fire. After the battle, Fred Hampton was found dead in a back bedroom and Mark Clark was found in the living room.

Thus, the testimony offered by the police officers involved in the incident was substantially the same as the story each officer told in the "exclusive" *Chicago Tribune* article ²¹⁵ and the State's Attorney's unique television "Re-enactment" presented over WBBM on 12/11/69.

The one significant difference between the testimony adduced at the inquest and the prior accounts of the incident was the account of Sgt. Daniel Groth, the leader of the raiding party, who testified that he

²¹¹ *Chicago Tribune* 12/21/69.

²¹² *Chicago Daily News* 12/31/69.

²¹³ *Chicago Daily News* 12/31/69.

²¹⁴ *Chicago Sun Times* 1/6/70.

²¹⁵ *Chicago Tribune* 12/11/69.

changed his mind as to who fired the first shot. Originally, Groth reported that Brenda Harris fired first from the bed in the living room. However, when questioned at the inquest, Groth admitted that after discussing the case with Officer Davis, he now decided that Mark Clark fired the first shot.²¹⁶

The scientific evidence presented ²¹⁷ at the inquest consisted of the findings of the Chicago Police Department Crime Laboratory as to the crime scene search and the ballistic evidence analysis. The Sergeant who lead the Crime Lab Mobile Unit stated that he arrived at the scene at approximately 5 a.m., received a briefing from Sgt. Groth, and commenced his inspection. This officer testified most emphatically that he had examined the panel in the living room door on December 4, 1969 and observed only one hole in the panel (the hole caused by the shotgun blast from within the apartment). He stated he looked for other holes in the door but could not find them, and if he did see them he would have recalled them.²¹⁸ Before this Grand Jury, the Sergeant acknowledged that ". . . more than one [shot] had gone through it [door]." ²¹⁹ A detailed analysis of the crime scene search by the Chicago Police Department Crime Laboratory is discussed in Section II F of this report.

Secondly, an experienced firearms examiner for the Chicago Police Department Crime Laboratory testified as to his findings relative to the ballistic aspect of the incident. The examination and findings are also discussed elsewhere in this report. Of primary significance are his findings and testimony identifying three shotgun shells as having been fired from weapons seized by the police from the premises.²²⁰ His findings were later proved to be in error as to two of the shells by the FBI ballistic examination. He thereafter admitted his error to the Grand Jury.

Each day the proceeding received wide exposure in the mass media and Gerber held afternoon press conferences in the Criminal Courts Building.

On January 18, 1970, Gerber was interviewed on television (WLS-Ch. 7) and suggested what verdict the "blue ribbon" jury would reach. The following day the jurors publicly admonished Gerber for making such statements specifically asking the Special Coroner ". . . not to allow [himself] to be interviewed by television people or other

²¹⁶ Coroner's Inquest Transcript (hereinafter known as CTR) Vol. E, p. 735.

²¹⁷ Exclusive of the medical evidence.

²¹⁸ CTR, p. 1148.

²¹⁹ Tr. XVI, p. 247.

²²⁰ CTR, p. 1405.

media.”²²¹ Gerber retorted that he was the coroner and the jury should not criticize him. A juror replied that if Gerber allowed himself to be interviewed again, the jury would criticize him again.²²² Gerber, seeking to have the last word, said he would not allow such criticism; a juror replied that Gerber would not stop such criticism.²²³

The proceedings were similarly marked by outbursts from attorneys representing the Hampton-Clark families and those from the State's Attorney's Office. On one such occasion, an Assistant State's Attorney referred to the spectators that were attending the inquest as “. . . a mob.”²²⁴

Inquest testimony is not subject to the rules of evidence; when the Special Coroner deemed further inquiry was unnecessary, he simply told counsel to cease asking questions. After twelve days of testimony, the Coroner's jury returned the verdict of justifiable homicide “based solely and exclusively on the evidence presented.”²²⁵

²²¹ CTR, p. 893.

²²² CTR, p. 895.

²²³ CTR, p. 896.

²²⁴ CTR, p. 1162.

²²⁵ *Chicago Today* 1/22/70.

K. *The Panthers are Indicted*

On January 30, 1970, after a presentation of evidence by the State's Attorney's Office, the Cook County Grand Jury indicted the surviving occupants of the apartment at 2337 West Monroe for attempted murder and other felonies.²²⁶ The charges against each occupant were as follows:

- | | |
|----------------|--|
| Brenda Harris | <ol style="list-style-type: none"> 1. Attempt to commit murder 2. Armed violence 3. Possession of firearms or firearm ammunition without having in their possession a firearm owner's identification card |
| Verlina Brewer | <ol style="list-style-type: none"> 1. Attempt to commit murder 2. Armed violence 3. Aggravated battery on Ciszewski (2) 4. Unlawful use of weapons 5. Possession of firearms or firearm ammunition without having in their possession a firearm owner's identification card 6. Unlawful possession of firearms and firearm ammunition (being under age 18) |
| Blair Anderson | <ol style="list-style-type: none"> 1. Attempt to commit murder 2. Armed violence 3. Aggravated battery on Ciszewski (2) 4. Unlawful use of weapons 5. Possession of firearms or firearm ammunition without having in their possession a firearm owner's identification card 6. Theft of a shotgun (2) 7. Unlawful possession of firearms and firearm ammunition (under age 21 and convicted of a misdemeanor) |

²²⁶ Exhibit 128.

Ronald Satchel

1. Attempt to commit murder ,
2. Armed violence
3. Aggravated battery on Ciszewski (2)
4. Unlawful use of weapons
5. Possession of firearms or firearm ammunition without having in their possession a firearm owner's identification card
6. Unlawful possession of firearms and firearm ammunition (under age 21 and convicted of a misdemeanor)

Harold Bell

1. Attempt to commit murder
2. Armed violence

Deborah Johnson

1. Attempt to commit murder
2. Armed violence
3. Possession of firearms or firearm ammunition without having in their possession a firearm owner's identification card

Louis Truelock
also known as
Louis Trueluck

1. Attempt to commit murder
2. Armed violence
3. Possession of firearms or firearm ammunition without having in their possession a firearm owner's identification card
4. Possession of firearms and firearm ammunition (within 5 years of release from penitentiary after a felony conviction)

The evidence received by that Grand Jury included testimony of the State's Attorney's Police officers who told the same version of the incident which they had related at the Coroner's Inquest.²²⁷

This testimony was coupled with a ballistic report prepared by a Chicago Police Crime Lab firearms examiner, which showed that at least three recovered shotgun shells had been fired in seized weapons, and that two of the three shells had been fired in the "Harris" shotgun.²²⁸

As discussed in detail elsewhere in this report, the two critical shells were fired in an officer's personal shotgun, and identification of these

two shells with any seized weapon was erroneous. Moreover, the inventory slip identifying the "Harris" gun with Brenda Harris reflects neither the signature nor the knowledge of the officer whose name appears on it. No positive identification of the "Harris" gun with Brenda Harris was effected by the State's Attorney's Police who seized the weapon.²²⁹

The seven named defendants plead not guilty on February 11, 1970.

²²⁹ Exhibit 124; Tr. XXVI, pp. 133-134; *supra* n. 90.

²²⁷ Tr. XXIV, p. 101, Groth; Tr. XXV, p. 124, Davis; Tr. XXVI, p. 279, Carmody; Tr. XXVII, p. 99, Ciszewski, p. 204, Broderick.

²²⁸ Tr. XXIII, p. 96.

L. Unofficial Investigations Conducted By Independent Organizations

At least five independent groups made public statements that they would investigate the incident considered by the Grand Jury. The groups involved and the current extent of such investigations are set forth below:

1. *Commission of Inquiry into the Black Panthers and Law Enforcement Officials*

This group, headed by former U.S. Supreme Court Justice Arthur J. Goldberg, consists of twenty-six private citizens representing the fields of civil rights, law, politics and business. No known investigation or inquiry had been undertaken by this group at the time of this report.²³⁰

2. *Delegation of Black Congressmen*

Newspaper accounts reported that Congressmen Charles Diggs, (D., Mich.); Louis Stokes, (D., Mo.); John Conyers, (D., Mich.); William L. Clay, (D., Mo.); and Adam Clayton Powell, (D., N.Y.), held an inquiry into the Panther incident in Chicago on December 20, 1969. Witnesses who appeared and testified at the inquiry included Negro State Senators, Chicago Aldermen, civil rights leaders, businessmen and Panther officials. No eyewitness testimony was presented. Following the inquiry, the panel visited the premises at 2337 West Monroe Street. The investigation by this group uncovered no evidentiary facts bearing upon the incident.

3. *Afro-American Patrolmen's Association*

This group is composed of black Chicago Police Officers. The head of the organization, Officer Renault Robinson, testified before the Grand Jury on February 11, 1970.²³¹ His testimony indicated that the investigation conducted by his group was limited to a visual inspection of the premises at 2337 West Monroe Street. The report of this investigation was allegedly given to the Black Panther Party.

²³⁰ *New York Times* 12/16/69.

²³¹ Tr. XII, pp. 138-198.

Officer Robinson was unable to produce a copy of the report for the Grand Jury.²³²

4. *Black Strategy Center*

An article appearing in the December 17, 1969 issue of the *Chicago Daily News* reported that the Black Strategy Center had made a \$20,000 grant for an investigation by blacks of the December 4, 1969, incident. We have received no information concerning any such investigation.

5. *The People's Inquest*

This activity, apparently sponsored by the Black Panther Party, allegedly represented a coroner's inquest conduct by the "people." It took place on March 8, 1970, at the First Congregational Church, Chicago, Illinois, after all the seven survivors of the incident had refused to testify before this Grand Jury on constitutional grounds and was publicized by paid advertising in the daily press.

A transcript²³³ of the proceedings listed Dr. Charles G. Hurst, President of Malcolm X College, as "coroner" and Mr. Jewel Cook as the people's attorney. The members of the "coroner's jury" were not named. Six of the seven survivors²³⁴ of the incident at 2337 West Monroe "testified" at the inquest. The survivors' testimony in that forum is incomplete, was not subject to cross-examination and under no binding testimonial oath. For these reasons, the Grand Jury believes this testimony deserves little weight. It may be summarized as follows:

Brenda Harris said she was asleep in the front (living) room of the apartment and was awakened by a knock on the door. She heard a voice say "Policemen" and to open up. Mark Clark said, "Just a minute." Clark got up, the police broke into the door and started shooting. She and Mark Clark were shot. An officer came in with a machine gun and started shooting through the wall towards the

²³² Officer Robinson declined to testify without a specific court order on the grounds that police authorities had imposed a unique requirement when they learned he was to testify, i.e. he was required to sign for the receipt of certain Police Orders and Regulations and feared disciplinary reprisals. Such an order was obtained and he testified. Supt. Conlisk denied any intention to interfere with Robinson's testimony (Tr. XXIX, pp. 44-48). However, his subsequent 30 day suspension is presently being evaluated by the Department of Justice to determine if it was related in any way to this testimony.

²³³ Exhibit 112.

²³⁴ Louis Truelock did not testify.

back. Someone in the back shouted "Don't shoot anymore," but the officer didn't pay any attention to them and kept shooting. Officers in the front and back were yelling back and forth to each other, "There's some over there, get them," and machine gun fire would start again. After the shooting stopped, the officers started cursing her and beating people in the back. She did not at any time have a gun in her hand nor did she see Mark Clark with a gun.²³⁵

Ronald "Doc" Satchel said he was asleep in the first (north) bedroom and was awakened by a knock on the door. Very shortly afterwards he heard shots. As bullets started coming through his bedroom, he got up and tried to put some pants on. He woke up the two people in the bed next to him and told them, "Let's get on the floor." He heard someone say "Come out" but they were afraid to come out because bullets were still being fired. The shooting continued and he and the other occupants of the room were shot and moaned. They were then told to come out of the room or be killed. He replied that he couldn't walk, but was told to "Come out of the room anyway." When he got out of the room, he was kicked by one of the officers and fell on the floor. He was then pushed and kicked towards the back, handcuffed and called "nigger" while the police laughed. He did not live at 2337 West Monroe and had no knowledge of any weapons being there. None of the persons in the room with him had any weapons and no one in the room called for a "shoot out."²³⁶

Verlina Brewer said she was in the north bedroom. Ronald Satchel woke her up saying "Get on the floor, the pigs are here." Shooting was going on at that time, and she lay between the beds. The officers cursed the occupants telling them to come out but kept on shooting. Finally, she was hit. She was made to walk to the kitchen, where she was cursed and kicked by the officers. She never had a gun in her hand.²³⁷

Blair Anderson remembers being awakened and Ronald Satchel telling him ". . . the pigs are out here", and he got on the floor. Bullets were coming through the wall. He heard someone say "Halt fire" and then "Come on out"

but, before they finished talking, they started shooting again. He heard a second "Halt fire" followed by a third "Halt fire." This was followed by a fourth "Halt fire." This was followed by machine gun fire coming through the wall. The shooting stopped but then started again, this time much lower. Bullets were striking paint buckets by his feet as well as the mattress on the bed. They called out that they were hit and the shooting stopped. The police told them to come out with their hands up. The police were cursing them and stomping Satchel, saying that they didn't deserve to live. He saw Hampton lying on the floor and knew that he was dead.²³⁸

Harold Bell was asleep when he heard a thud on the door followed by two shots. He immediately jumped up and ran towards the back to wake up Hampton. (He did not indicate what room he was in). As he started in the back (south) bedroom, police were coming in the back door. As he tried to wake up Hampton, the police came in and started shooting into the room. One of the police reached into the room and snatched him out. Another police officer came in and started firing into the room with a revolver. He heard police say "That's Fred Hampton." He believed that when he was pulled out, Hampton had already been shot. The police kicked him and cursed him.²³⁹

Deborah Johnson was asleep in the back (south) bedroom when someone came in and started shaking Hampton saying "Chairman, wake up, pigs are here." She looked up and could see that shots were being fired from the back and from the front. She saw a lot of police come in and start shooting at the door. Hampton looked up and then laid his head back down. She did not know if he had been shot then or not; he didn't move. The shooting continued. Finally it stopped and she said, "We are coming out with our hands up." After she got out, the shooting started again. She heard a girl scream and the shooting stopped. As she was being taken out of the apartment she saw Mark Clark lying in a pool of blood beside the front door. Neither she nor Fred Hampton had guns in their hands at any time.²⁴⁰

²³⁵ Exhibit 112, pp. 3-7.

²³⁶ Exhibit 112, pp. 7-14.

²³⁷ Exhibit 112, pp. 15-19.

²³⁸ Exhibit 112, pp. 27-31.

²³⁹ Exhibit 112, pp. 33-38.

²⁴⁰ Exhibit 112, pp. 40-44.

As announced in the news media, the "jury" of the People's Inquest concluded that the fourteen State's Attorney's Police officers were "guilty of premeditated murder" and held Mr. Hanrahan and the officers "in contempt of the people." The proceeding concluded with a request to the state, by Dr. Charles G. Hurst, for "appropriate action." (*Chicago Sun Times* 3/9/70.)

M. The Scientific Analysis of the Physical Evidence Found in the Apartment

As previously noted, the Grand Jury's investigative plan was to collect every item of physical evidence that had been removed by anyone from the apartment and submit it to the FBI Laboratory for detailed scientific analysis. Then, with the aid of a one-ninth scale model showing bullet holes, furniture and people, the Grand Jury attempted to reconstruct through testimony and physical facts exactly what had occurred.

In addition to the various items of ballistics significance collected by each of the investigation teams and described on pp. 86-88, *infra*, the FBI also obtained mattresses, box springs, clothing and various other articles of potential evidentiary value removed by the occupants' attorney. The FBI Laboratory examined forty-six weapons, two hundred thirty bullets, shells, wads and shotgun pellets ²⁴¹ and associated material, and eighty-six other items of physical evidence, during the course of this investigation. Also, the State's Attorney's Police made available the following weapons seized at the scene:

- (1) .45 caliber Argentina Colt automatic pistol
- (1) 20-gauge shotgun, Sears Roebuck, Model 21
- (1) 12-gauge shotgun, Springfield, Model 67H
- (2) 12-gauge shotguns, High Standard Model K-1200, Riot 20-6
- (1) 12-gauge shotgun, Browning
- (1) 12-gauge shotgun High Standard, Model K-1200, Flite King-Brush
- (1) 12-gauge shotgun, Remington Wingmaster, Model 870
- (1) 12-gauge shotgun, Ithaca, double barrel, sawed-off (below legal limit)
- (1) 12-gauge shotgun, Ithaca, Model 37 Feather light (stolen from Chicago Police Department)
- (1) 12-gauge shotgun, Stevens, Model 520
- (1) .30 caliber carbine, National Ordnance, Incorporated
- (1) .22 caliber rifle, Stevens Springfield, Model 87A

²⁴¹ The ballistic examination of shot and wadding is of limited value, since these shotshell components cannot be identified with any gun or shell. This is because all shot is made standard weight and size irrespective of brand, and shotguns are smooth bore leaving no identifying marks on shot fired. Wadding may be identifiable as to manufacturer, because of distinctive colors; no identity of the weapon from which the wad was fired can be made.

- (1) 9mm Astra, Spanish automatic pistol, Model 600-43
- (1) 7.65 Llama Especial, Spanish automatic pistol
- (1) Caliber .38 Special Colt D.A. revolver
- (1) Caliber .38 Special Smith and Wesson revolver, Model M and P 1902
- (1) Caliber .32 S and W Long, Smith and Wesson revolver
- (1) Marksman pellet gun, caliber .177

After the premises were sealed on December 17, 1969, a detailed examination of the premises was begun by the FBI on December 22.²⁴² A room by room summary of the FBI analysis of the physical evidence and the condition of the apartment follows; the numbers in parenthesis refer to the numbered areas on the sketch of the apartment appended to this report:

THE ENTRANCE FOYER

The entrance foyer revealed no bullet impact points; no bullets or shell casings were found there.²⁴³ There is no physical evidence of any shots passing into, out of, or through this area.²⁴⁴

THE ENTRANCE HALLWAY

The entrance hallway walls reflect the impact of two shots. One is in the northeast corner, where a charge of #7½ or #8 shot struck (1); the other hole is consistent with a 12 gauge rifled slug high in the southwest wall (2).²⁴⁵

At the time of the FBI examination, wallboard had been removed from the northeast wall at the impact point (1), some #7½ or #8 shot had been recovered from it and a 12 gauge Remington shot gun wad had been collected from the nearby floor by a Black Panther Party investigator.²⁴⁶ The #7½ or #8 shot and Remington wad could not be associated with any weapon by trajectory; the gun firing the shot could only have been held inside the front door pointed east, almost

²⁴² Tr. XIX, p. 23.

²⁴³ Exhibit 103, Exhibit 17.

²⁴⁴ Tr. XIX, p. 21.

²⁴⁵ Tr. XIX, pp. 21-24.

²⁴⁶ Tr. XIX, p. 21; Tr. V, pp. 71-72.

parallel to the doorway.²⁴⁷ The Chicago Police Department Crime Lab and the State's Attorney's Police both failed to observe this impact point in their examinations of the premises, although unofficial photographs taken on the morning of December 4 reflect the impact site,²⁴⁸ and the bullet damaged wallboard appears in official police Crime Lab pictures taken on 12/17-18/69.

The apparent shotgun slug hole in the southwest wall (2) was noted on December 4 by the Crime Lab and probed and excavated by the Crime Lab on December 17-18, but no recovery was made.²⁴⁹ A 12 gauge rifled slug submitted by the Panther attorney had been recovered from the adjacent stairwell by a private ballistics expert on December 8, 1969.²⁵⁰ The rifled slug impact point (3) was caused by a slug fired through the door from a point in the living room 15 inches from the door, probably by a gun at hip level. At this moment of impact, the door was open at a 45° angle.²⁵¹ The door panel was removed from the premises by a Black Panther Party investigator on December 8, 1969.²⁵² One additional hole appeared in the removed door panel, above the hole made by the rifled slug.²⁵³ That hole (4) was made by a .38 caliber pistol bullet fired from the hallway into the living room, probably by Sgt. Groth.²⁵⁴

A large bundle of clothing found in the southwest hallway and examined by the FBI contained a 12 gauge shotgun wad.²⁵⁵ A spent .45 caliber shell casing was recovered from the center of the hallway by Black Panther Party investigators on December 4, 1969.²⁵⁶ No physical evidence was recovered from the entrance hallway by the State's Attorney's Police or Chicago Police Department investigators.

²⁴⁷ Tr. V, pp. 69-71; Tr. XIX, pp. 71-72, Impact point (1) remains unexplained. On the basis of a photograph and motion pictures taken on December 4, 1969, it is clear that this shot was not fired after December 4 (Exhibits 45, 24, 54). The wad found on the floor near the impact point, and the size of the shot, are consistent with shotshells issued by the State's Attorney's arsenal, and with a shell fired in Jones' shotgun. Officer Jones denies firing the shot, and the Grand Jury cannot establish how long before the December 4, 1969 pictures the shot may have been fired.

²⁴⁸ Exhibit 6 #119, Item 9, 17; Exhibits 24, 54; Exhibit 45 St-2.

²⁴⁹ Tr. XVII, pp. 37-38.

²⁵⁰ Tr. V, pp. 97-99.

²⁵¹ Tr. XIX, pp. 61-63.

²⁵² Tr. V, pp. 83-84.

²⁵³ Tr. V, pp. 84-85; Tr. XIX, pp. 57-62.

²⁵⁴ Tr. #XIV, p. 59.

²⁵⁵ Tr. XIX, pp. 27-30.

²⁵⁶ Exhibits 24, 54; Exhibit 43.

THE LIVING ROOM

Prior to the FBI examination of the living room, a single bed originally in the southeast corner and a mattress originally in the center of the floor had been removed. In this room the FBI examination revealed the following marks identified with weapon's fire: one .30 caliber bullet hole of entry (5) in the top right drawer of a black bureau positioned on the northwest wall, and copious splatterings of Group B blood in and on this bureau;²⁵⁷ a bullet mark (6) in the high northwest corner of the living room wall eighty inches from the floor made by a bullet on a rising trajectory originating in the center of the room near the space heater (from which FBI agents recovered a .380 bullet on March 8, 1970);²⁵⁸ an apparent recovery site (7) on the southeast wall from which a .38 bullet (probably fired through the living room door) had already been recovered by the Black Panther Party investigators;²⁵⁹ 42 holes of entry on the south wall (8);²⁶⁰ a bullet hole in the bottom drawer of a white dresser on the southwest wall (9), from which no recovery was made;²⁶¹ and one hole in the south door jamb of the entrance door, 57 $\frac{1}{4}$ inches from the floor (10),²⁶² no bullet was found in this hole, the hole did not penetrate the plaster beneath the molding, and it was consistent with a pre-existing hole present in the molding when it was put up.²⁶³ The trajectory of this hole was flat and angled directly to the center of the living room. There were no other impact points on the walls of this room.

Prior to the FBI examination, two 12 gauge shotgun shells (designated Q-58 and Q-59 by the FBI) and a .45 caliber shell had been recovered by the Police Crime Lab from his room, near the white dresser on the southwest wall.²⁶⁴ One fired 12 gauge Winchester Western shotgun shell (Q-119) was found "on the scene" by the State's Attorney's Police on December 4, 1969.²⁶⁵

A firearms examiner of the Chicago Police Department Crime Laboratory testified before the Coroner's Inquest on January 20, 1969.²⁶⁶ He stated that he had examined the seized weapons and re-

²⁵⁷ Tr. XIX, pp. 40-43.

²⁵⁸ Tr. XIX, pp. 35-38.

²⁵⁹ Tr. V, pp. 102-103; Tr. XIX, p. 32.

²⁶⁰ Tr. XIX, pp. 31-32.

²⁶¹ Tr. XIX, pp. 43-44.

²⁶² Tr. XIX, pp. 86-87.

²⁶³ Tr. XIX, pp. 87-88.

²⁶⁴ Tr. XVI, p. 251.

²⁶⁵ Exhibit 6 #108.

²⁶⁶ CTR, pp. 1290-1414.

covered shells and bullets and found that two seized 12 gauge shotguns could be associated with discharged shells found in the premises. The first gun (FBI designation K-31) was positively identified as having fired the two shells (Q-58 and Q-59) found near the foot of the bed.²⁶⁷ The officers identified this weapon (K-31) as the one held and fired from the bed by Brenda Harris.²⁶⁸ The Police Crime Laboratory reports identifying these two shells as having been fired from the "Harris" gun were introduced in evidence before the Cook County Grand Jury.²⁶⁹

As previously noted, at the time of his examination, the firearms examiner from the Police Crime Lab did not have available the weapons the officers had carried on the raid.²⁷⁰ These weapons were obtained and tested by the FBI and, among them was a High Standard 12 gauge shotgun (K-25) of the same manufacture as the "Harris" gun, which had been carried by Officer Ciszewski.²⁷¹ The FBI Laboratory positively established that the two shells in question had been fired from the Ciszewski weapon (K-25) and had not been fired from the "Harris" weapon (K-31).²⁷²

The other 12 gauge shell (Q-119) had been loaded with a single lead slug—commonly called a deer slug—and had been correctly identified as having been fired from the shotgun (K-46)²⁷³ attributed by the officers' testimony to the deceased Mark Clark. This gun also had Group B blood deposits on it which is the same blood group as Mark Clark.

THE NORTH BEDROOM

Examination of the north bedroom walls and furniture revealed that all forty-two shots (8) fired into the south wall of the living room passed into the north bedroom and that eighteen of the forty-two shots passed through the south wall of the north bedroom into the south bedroom; presumably, one of these bullets (a .30 caliber carbine bullet) was the one recovered from Hampton's body.²⁷⁴

²⁶⁷ Exhibit 103; Exhibit 84 #11D; Exhibit 62; Exhibit 6 #108.

²⁶⁸ Tr. XXVI, p. 129. This is the only weapon specifically attributed to any occupants of the apartment, by State's Attorney's Officers' inventory slip. This inventory slip was made out by one officer, who signed another officer's name to it. The officer whose name was affixed had no personal knowledge as to whether Harris had held this gun (Tr. XXVI, p. 133; Exhibit 124).

²⁶⁹ Tr. XXIII, pp. 91, 96, 133.

²⁷⁰ Tr. XXIII, p. 89.

²⁷¹ Tr. XIX, pp. 225-245; Exhibit 101. All are High Standard K-1200 12 gauge shotguns.

²⁷² Tr. XX, pp. 48-68.

²⁷³ Tr. XX, pp. 84-87.

²⁷⁴ Tr. XIX, pp. 111-113, 124; Exhibit 101.

Twenty-four of these forty-two bullets passed through the north bedroom door which was wide open.²⁷⁵ The east wall had been struck by six bullets fired into it from the doorway (11); while three shotgun blasts (12) fired into the room struck the north wall.²⁷⁶ Two of these blasts were #7½ or #8 shot fired from the hallway or dining room into this room through the doorway;²⁷⁷ the other was double ought buckshot which entered high on the west wall from the direction of the dining room.²⁷⁸ A number of .45 caliber machine gun bullets were fired southeast from the doorway of the north bedroom into the closet (13),²⁷⁹ striking clothing and paint cans; some went through the closet walls into the south bedroom. At least five of the six impact points on the east wall were made by .45 caliber machine gun bullets fired into the room from the doorway.²⁸⁰ There were eight bullet holes in the dresser (14), three made by bullets fired through the south living room wall and four made by bullets fired in through the bedroom doorway; one (15) on the west end of the dresser was made by an incoming ricochet of unknown trajectory.²⁸¹

There were no impact points or other physical evidence in the north bedroom which could be associated with firing outward from within that room.²⁸²

The State's Attorney's Office and Chicago Police Department Crime Lab recovered only eight items of physical evidence from this room, including wads and some shot.²⁸³ More than forty items, including empty shells, bullets, shot, and shotshell components were recovered by the Black Panther Party and the FBI after the Chicago Police Department Crime Lab personnel had left the scene.²⁸⁴ Fragments of .30 caliber carbine bullets and other bullet material were detected in the beds of the room by the FBI by radiographic examinations and were subsequently recovered.²⁸⁵

THE SOUTH BEDROOM

Examination of the south bedroom reflected nineteen entry bullet holes (8) on the north wall, of bullets fired from the living room, as

²⁷⁵ Tr. XIX, p. 128.

²⁷⁶ Tr. XIX, pp. 114-116; Exhibit 101.

²⁷⁷ Tr. XIX, pp. 131-138.

²⁷⁸ Tr. XXVII, p. 132. This shot is consistent with the officers' testimony that Broderick fired high from the kitchen to cover Carmody as he entered the dining room.

²⁷⁹ Exhibit 17 (A-H).

²⁸⁰ Tr. XIX, p. 137.

²⁸¹ Tr. XIX, pp. 155-160.

²⁸² Tr. XIX, p. 172.

²⁸³ Exhibit 103.

²⁸⁴ Exhibits 101 and 103.

²⁸⁵ Tr. XIX, pp. 168-169.

well as eight entry holes of bullets fired from the north bedroom doorway or through the closet of the north bedroom.²⁸⁶ At the time of the FBI examination of the south bedroom, there were two apparent 12 gauge double ought buck shotgun blast impact points (16) on the east wall, fired into the room from the bedroom doorway, and several apparent impact points on the shutters, south wall window frames and south wall (8) made by bullets fired south from the living room or southeast into the north bedroom from its doorway.²⁸⁷ The mattress of the bed from which Hampton was dragged contained many bullet fragments; the foot of the bed had been struck by a shotgun blast from the doorway (17).²⁸⁸ This shotgun blast was reflected in the lower east wall of the bedroom in line with the foot of the bed in films taken at the scene on December 4, 1969.²⁸⁹ This portion of the wall had been torn out at the time of the FBI examination. The west window on the south wall was shot out by a police officer firing from the dining room (18).²⁹⁰ This shotgun blast impacted on a neighboring shed outside and to the east rear of the apartment (18).²⁹¹

The Chicago Police Department and the Black Panther Party investigators each retrieved eleven items of physical evidence from this room, and the FBI recovered four more at the time of its examination of the premises.²⁹² There were no impact points or other physical evidence of any firing originating in this room.²⁹³

THE APARTMENT AT LARGE

Only one other bullet impact point appeared in the premises; this was a shotgun blast fired from the dining room high into the east wall of the dining room (19), which passed through the dining room wall and into the north bedroom, striking the north wall of the north bedroom 80 inches from the floor.²⁹⁴

There were no bullet holes on the west walls of the hallway, none on the bathroom walls, none on the walls of the dining room other than that mentioned above and none at all on the kitchen, porch or

²⁸⁶ Tr. XIX, pp. 124, 161-167; Exhibit 17.

²⁸⁷ Tr. XIX, pp. 180-190.

²⁸⁸ Tr. XIX, pp. 192-196.

²⁸⁹ Exhibits 24, 54.

²⁹⁰ Tr. XXVII, p. 144.

²⁹¹ Exhibit 17.

²⁹² Exhibit 103.

²⁹³ Tr. XIX, pp. 178-188, 201.

²⁹⁴ Tr. XIX, p. 202.

outside walls of the apartment or adjacent buildings,²⁹⁵ except for one impact point on a neighboring shed consistent with one officer's shot toward a south bedroom window.²⁹⁶

THE BATHROOM DOOR

In interviews with the press and in the TV re-enactment of the incident, Sgt. Groth repeatedly referred to a charge of shot fired from the north bedroom impacting on the bathroom door.²⁹⁷ The riddled door of the north bedroom was photographed and misidentified as the bathroom door in a *Chicago Tribune* feature story.²⁹⁸ Groth testified that the bathroom door was the logical place for the shot he saw to have struck, and that the pictures of the north bedroom door (which he mistook for the bathroom door) may have influenced him.²⁹⁹ Because of the absence of impact points on the west wall of the apartment corresponding to shots the officers said emanated from the north bedroom, the Grand Jury directed a scientific analysis be made of the bathroom door by the FBI to determine whether the door was the same one present at the time of the incident or whether an alteration or substitution of doors had been made. Chemical analysis of paint scrapings from the door surfaces and the inside of the bathroom showed that the same door was in place at the time of the raid, and that no substitution had been made.³⁰⁰ There were no bullet holes in the bathroom door.

RECOVERED EMPTY SHELLS AND BULLETS

A total of seventy-six³⁰¹ empty shells were recovered from the scene by all parties. The breakdown of the empty shells, as associated with weapons by the FBI follows:

²⁹⁵ Tr. XIX, pp. 83-86, 202-205, 224-225. A scarred brick in line with the only possible trajectory from the west end of the bed in the living room to a building more than 100 feet away was removed from the building for examination at the FBI Laboratory. No traces of bullet metal were found on this brick (Exhibit 101).

²⁹⁶ Tr. XXVII, p. 144.

²⁹⁷ Tr. XXIV, pp. 67-68, 213.

²⁹⁸ *Chicago Tribune* (midnight edition) Thursday, Dec. 11, 1969.

²⁹⁹ Tr. XXIV, pp. 105-107.

³⁰⁰ Tr. XIX, pp. 83-86; Exhibit 101.

³⁰¹ This does not include nine .32 caliber empty shells, matching no weapon seized or used by police, which were recovered, two of them from a dresser drawer (Exhibits 101, 103); a great number of live rounds were also seized (Exhibit 8B, Item 22, Inventory No. 752930). A reporter also testified that he had observed a Panther guide pocket a .45 caliber shell after being told to leave it alone by the occupants' attorney. This shell has not yet been recovered (Tr. XXVIII, pp. 3-15).

Empty Shells			
Number	Type shell	Fired in Police weapon	Fired in seized weapon
44	.45 cal	44	0
19	.30 cal	19	0
13	12 gauge	12	1
³⁰² 7	.38 cal	7	0
Total	83	82	1

The recovered bullets, identifiable by the FBI with seized or police weapons, are analyzed as follows:³⁰³

Recovered Bullets			
Number	Type bullet	Fired in Police weapon	Fired in seized weapon
18	.30 cal	18	0
5	.38 cal	5	0
32	.45 cal	32	0
1	12 gauge slug	0	1
Total	³⁰⁴ 56	55	1

Based on the number of rounds checked out and returned to the State's Attorney's Police arsenal, it is possible that some of their shells were not recovered. Of forty 12 gauge shotgun shells issued to State's Attorney's Police seventeen were returned unused; there were thirteen recovered 12 gauge shells, of which one was fired in a seized weapon and two Jones claimed were his personal ammunition. Therefore, if all shells not returned were fired, thirteen shotgun shells issued to police were not recovered. Similarly, of one hundred ten .45 caliber bullets issued to Officer Gorman sixty-two were returned unused; and forty-four empty .45 shells and thirty-two .45 caliber bullets fired in the machine gun were recovered. Thus, again, if all ammunition that was not returned was fired, four .45 caliber shells and sixteen .45 caliber bullets issued to Gorman were not recovered.³⁰⁵

Upon the assumptions: (1) that only Jones fired his own ammunition, (2) that all other 12 gauge shells were issued by the State's Attorney's Office arsenal and (3) that all police-issued ammunition for heavy weapons which was not returned, was fired, the following table reflects rounds fired by the State's Attorney's Police:

³⁰² Seven .38 caliber shells, fired by Groth (2), Carmody (5), were removed from the scene by those officers. These were not recovered during the examination.

³⁰³ One .380 automatic bullet which matched no weapon seized or carried by police was also recovered.

³⁰⁴ Fewer whole bullets were recovered than shells, partially because many bullets fragmented on impact. Some of these fragments were recovered after radiographic examination of the mattresses (Exhibit 101).

³⁰⁵ Tr. XII, pp. 55-56; Exhibit 102.

No.	Caliber	Weapon	Comment
48	.45	machine gun...	44 empty shells and thirty-two identifiable bullets recovered.
19	.30	carbine.....	19 empty shells and 18 identifiable bullets recovered.
7	.38	revolver(s)....	shells disposed of by Groth (2) and Carmody (5).
25	12 gauge	shotgun(s)....	13 empty shells recovered.

Total...99

The comparative recovery of bullets, empty shells, and shotshell components (wads and pellets) by all the investigators involved may be illustrated by a table:

Room	Recovered By SAO And Crime Lab	Recovered By BPP	Recovered By FBI
Entrance hall.....		3	3
Staircase.....		1	
Living room.....	3	7	1
North bedroom.....	8	30	13
South bedroom.....	11	11	4
Dinning room.....		3	
Kitchen.....		0	1
Bathroom.....		3	
Adjacent shed.....		1	
In mattress.....			17
Location not specified.....	62	6	0
Total.....	84	65	39

Other than the few items recovered by Crime Lab officers, the materials submitted to the Chicago Police Department Crime Lab for examination were unclassified as to locus of recovery.³⁰⁶ No fingerprints were preserved on any articles of evidence. The guns of the police officers were not turned into the Chicago Police Department Crime Lab for examination, although to do so is standard practice.

Nonetheless, a preliminary report was prepared by the Crime Laboratory firearms examiner, submitted to the State's Attorney's Office and presented by the State's Attorney to the State Grand Jury as evidence to consider for indictment of the surviving arrested apartment occupants.

³⁰⁶ Exhibit 108.

As indicated above, the examiner erred in classifying two shells fired in Officer Ciszewski's shotgun as fired in a seized shotgun. There were several other errors in the firearms examiner's report, including mis-identification of shells fired in Jones' shotgun, failure to count wads accurately, mis-labeling of materials as to location of recovery and mis-identification of the core from a .30 caliber carbine bullet as a .32 Smith and Wesson slug.

The firearms examiner testified before this Grand Jury that due to daily pressure from the State's Attorney's Office³⁰⁷ he was required to report his findings before he had examined all of the State's Attorney's Police weapons. The examiner said that he could not refuse to sign a report without being fired from his job.³⁰⁸ He told this Grand Jury that the physical evidence was turned over to him by the State's Attorney's Police in such a condition as to make his work extraordinarily difficult, and that he could not complain because it was the State's Attorney's Office which had turned the materials in to him.³⁰⁹ Had the materials been received from the Chicago Police Department, he would have objected to the procedure and would have obtained all the weapons present in the apartment and a proper request for examination.³¹⁰ Under the circumstances, he felt that he could not object to the State's Attorney's procedures, and that he could not refuse to perform what he viewed as an inadequate analysis.³¹¹ Although his reports were preliminary in nature and he was dissatisfied with them, they were not so labeled and he had testified to the results in the Coroner's Inquest.³¹² The examiner indicated that he was revising his final report to correct the errors described above.³¹³

³⁰⁷ Tr. XXIII, pp. 126-127.

³⁰⁸ Tr. XXIII, p. 132.

³⁰⁹ Tr. XXIII, pp. 86-87, 119-120, 122-123.

³¹⁰ Tr. XXIII, p. 117.

³¹¹ Tr. XXIII, pp. 115-123.

³¹² Tr. XXIII, pp. 91-96, 100.

³¹³ Tr. XXIII, pp. 111-113, 137-138.

N. Evidence of the Eyewitnesses

1. Testimony of the officers

Before the seven³¹⁴ officers principally involved in this action testified here, the results of the analyses of the physical evidence performed by the FBI were reviewed for them.³¹⁵ This was done on order of the Court upon application of this Grand Jury, to ensure fairness.

State's Attorney Hanrahan and the assistants whom he had assigned to this matter were also given the same detailed briefing on the physical evidence and were accorded the opportunity to examine the scale model of the premises with the involved officers before the officers testified. The officers were then each given detailed instructions as to their testimonial rights and privileges and were advised to reconsider their testimony in light of the analyses of the physical evidence.

These seven officers had testified at the Coroner's Inquest;³¹⁶ some had testified before the State Grand Jury; several testified that their testimony before this Grand Jury was substantially the same as that on other previous recitals.³¹⁷ Some discrepancies between the accounts given on different occasions were noted. The Grand Jury has attempted to resolve the various discrepancies, taking into account the darkness and unfamiliarity of the officers with the premises. There are no absolute resolutions of all the officers' statements, because they were not in clear communication with each other throughout the action. However, the most consistent version of their various recitals, as construed by the Grand Jury, is set forth below.

The first floor apartment at 2337 West Monroe consists of a living room, two bedrooms, a bathroom, dining room and kitchen.³¹⁸ The premises are located on the south side of Monroe Street between S. Western Avenue and S. Oakley Boulevard, bordered on the east by

³¹⁴ Sgt. Groth and Officers Davis, Gorman, Jones, Carmody, Ciszewski, Broderick.

³¹⁵ Tr. XXIV, pp. 233-235; Tr. XXII (entire).

³¹⁶ With the exception of Officer Jones, these officers also appeared in the screened version of the State's Attorney's televised re-enactment. Although this re-enactment was incomplete, and Officer Jones' participation in the action was eliminated for his security, the TV re-enactment is generally consistent with the officers' testimony before this Grand Jury. (Exhibit 114, 7 (a-e); Tr. XXIV, p. 125.)

³¹⁷ Tr. XXIV, p. 101 (Groth); Tr. XXV, p. 124 (Davis); Tr. XXVI, p. 279 (Carmody); Tr. XXVII, p. 99 (Ciszewski), p. 204 (Broderick).

³¹⁸ Exhibit 17.

2335 W. Monroe (a two story dwelling) and on the west by 2339 W. Monroe (a two flat apartment); a narrow sidewalk also runs north and south between 2337 W. Monroe and 2335 W. Monroe.³¹⁹ The officers' account is more easily followed by referring to the diagram of the premises attached to this report.

* * * * *

At approximately 4:30 a.m., Sgt. Groth and the other officers left the State's Attorney's Office in three unmarked squad cars and a paneled State's Attorney's truck and proceeded to 2337 West Monroe Street.³²⁰ Sgt. Groth and Officers Davis, Gorman and Jones were in the lead car;³²¹ Officers Marusich, Harris, Howard and Hughes next;³²² followed by Officers Carmody, Ciszewski, Joseph and Kelly in a third unmarked car and Officers Corbett and Broderick in the panel truck.³²³ At approximately 4:40 a.m., as Sgt. Groth neared the premises, he radioed the 13th District to send beat cars to cover the front and rear of 2337 West Monroe.³²⁴

Sgt. Groth climbed the porch stairs of the premises accompanied by Officers Jones, Hughes, Gorman and Davis.³²⁵ Officers Carmody, Ciszewski, Broderick, Kelly, Joseph and Corbett proceeded to the area of the back door.³²⁶

As Groth went up the front steps, Davis was on his left, Jones was on his right and Gorman was behind Davis.³²⁷ The four went into the entrance foyer through the outside door which was open.³²⁸ Hughes remained outside.³²⁹ Groth stood to the right of the closed door to the entrance hallway and knocked with his left hand.³³⁰ He received no response, waited several seconds, then reached over with his revolver held by the barrel in his right hand and pounded loudly on the door; after several seconds a male voice from within the apartment said, "Who's there?" Groth said, "Police officers, I have a warrant to search the premises."³³¹ Groth waited ten to twelve seconds, which he considered to be a long time, and then reached over with his right hand and pounded loudly on the door.³³² A male voice within said, "Just a

³¹⁹ Exhibits 17 and 117.

³²⁰ Tr. XXIV, p. 45.

³²¹ Tr. XXV, p. 50.

³²² Tr. XV, pp. 146-147, 208-209.

³²³ Tr. XVI, pp. 180-181.

³²⁴ Tr. XXIV, pp. 35, 45; Exhibit 87.

³²⁵ Tr. XXIV, p. 47.

³²⁶ Exhibit 8A, Item 5.

³²⁷ Tr. XXIV, p. 46.

³²⁸ Tr. XVII, p. 126.

³²⁹ Tr. XXIV, pp. 46-47.

³³⁰ *Ibid.*

³³¹ Tr. XXIV, pp. 47-48.

³³² Tr. XXIV, p. 49.

minute"; Groth waited ten to fifteen seconds and then told Officer Davis to go ahead.³³³

Thereupon Davis kicked the front door open with his right foot and went into the entrance hallway, with Groth right behind him.³³⁴ As he went in, Davis veered to the left and struck the entry door of the living room of the apartment.³³⁵ As he went through the door, a shot was fired from within the apartment.³³⁶ Gorman observed wood explode out of the door right above Davis' arm.³³⁷ The only light in the front of the apartment at this time was from a space heater.³³⁸

As Davis plunged into the apartment out of Groth's view, Groth, fearing Davis had been hit, stepped into the doorway of the living room and looked into the apartment. By the light of a gas heater, he observed a woman on a bed located in the southeast section of the living room against the south wall pointing a shotgun in his direction.³³⁹ Groth was terrified and couldn't move; Jones and Gorman were just behind him and Hughes was outside of the apartment.³⁴⁰ Groth shouted: "Look out, she is going to shoot again," assuming that she had fired a shot as Davis went into the apartment.³⁴¹ As Groth stood in the doorway, the girl fired a shot and Groth felt something go by his left shoulder.³⁴²

Gorman, who was looking right at the girl when she fired, observed a ball of flame come almost halfway to the officers.³⁴³

Jones observed the blast from the shotgun and saw Groth grab his left shoulder. Jones felt a sensation of a wind and felt the bottom flap of his fingertip length coat move as a result of the blast.³⁴⁴ Hughes also felt something brush his shoulder.³⁴⁵

Thereupon, Groth took his service revolver in his right hand, backed out of the apartment, thrust his hand over his head with his revolver pointed into the apartment and his body concealed in the hallway, fired at least two blind shots in the direction of the girl.³⁴⁶

³³³ *Ibid.*

³³⁴ Tr. XXIV, pp. 49-50.

³³⁵ Tr. XXIV, p. 50.

³³⁶ *Ibid.*

³³⁷ Tr. XXV, p. 246.

³³⁸ Tr. XXIV, p. 52.

³³⁹ Tr. XXIV, p. 50.

³⁴⁰ *Ibid.*

³⁴¹ *Ibid.*

³⁴² *Ibid.*

³⁴³ Tr. XXV, p. 192.

³⁴⁴ Tr. XXVI, pp. 44-46.

³⁴⁵ Tr. XVII, p. 130.

³⁴⁶ Tr. XXIV, p. 50.

Groth then turned to Hughes who was now in the entrance hallway and told him "Put in a 10-1. They are shooting at us. Tell the fellows in the back. I think Duke is shot." At approximately 4:45 a.m., two beat officers in car number 1322, responding to Sgt. Groth's earlier request,³⁴⁷ arrived at the scene. Hughes was unable to get his car radio to transmit and requested the 13th District beat car to place the 10-1 (police officer needs help) over the police radio at 4:45:40.³⁴⁸

Davis had gone into the hallway in a crouch,³⁴⁹ and hit the living room door with his shoulder and arm in a continuing rush.³⁵⁰ As Davis went into the apartment, he saw a flash which passed over him as he went through the door.³⁵¹ While he is not positive, he believes that Brenda Harris fired twice, the first shot being simultaneous with the shot fired through the door by Mark Clark. He thus stated that he immediately saw a second flash from the gun held by Brenda Harris.³⁵² Harris was on the bed braced against the east wall in the southeast corner of the living room.³⁵³ Davis landed on his elbows and fired one shot at her from a prone position.³⁵⁴ He believed that his first shot came after her second shot.³⁵⁵ Immediately after shooting Harris, Davis saw Clark out of the corner of his eye, illuminated by Groth's gunfire.³⁵⁶ When he first saw Clark, Clark was sitting on a chair behind the door facing him and pumping a shotgun.³⁵⁷ Davis turned and, in a kneeling position, fired two shots at Clark.³⁵⁸ At the time when Davis fired, Clark had the gun across his body at the lap level on his right side pointing at Davis.³⁵⁹ Clark stood up with the gun in his hands; Davis stood, threw his arms around Clark and threw him to the floor.³⁶⁰ Despite evidence of violent bleeding by Clark, Davis found only a drop or two of blood on his clothes at the bottom of his suit coat.³⁶¹ Davis immediately climbed off Clark's

³⁴⁷ One of the officers from the beat car heard machine gun fire from the dark apartment at about this time (Tr. XVII, pp. 56-57).

³⁴⁸ Tr. XVII, p. 54; Exhibit 87.

³⁴⁹ Tr. XXV, p. 68.

³⁵⁰ Tr. XXV, p. 69.

³⁵¹ Tr. XXV, pp. 69-70.

³⁵² Tr. XXV, p. 73.

³⁵³ Tr. XXV, p. 72.

³⁵⁴ *Ibid.*

³⁵⁵ Tr. XXV, p. 73.

³⁵⁶ Tr. XXV, p. 74.

³⁵⁷ *Ibid.*

³⁵⁸ Tr. XXV, pp. 76-77.

³⁵⁹ Tr. XXV, p. 77.

³⁶⁰ Tr. XXV, p. 79.

³⁶¹ Tr. XXV, pp. 82-83. Davis believes he picked up Clark's shotgun later in the raid, from beneath the body; he did not remember blood on the gun, and he did not get his hands bloody (Tr. XXV, p. 106).

body and moved toward the middle of the room. As he did, he noticed a man moving in the hallway near the rear bedroom of the apartment; he was holding a shotgun.³⁶²

Gorman heard shots ring out behind the living room door and heard Davis holler for him to come in. Gorman rushed into the living room, noted the girl was wounded, grabbed her shotgun and threw it toward the open doorway.³⁶³ Jones had also rushed into the room and moved to the dresser on the west wall of the living room and Groth was still in the hallway when the other officers began to force their way in at the back; Davis saw flashes of fire from the south bedroom.³⁶⁴ At this time, Groth came back into the living room and called for the first cease fire.³⁶⁵

The action at the rear of the apartment, led by Officer Carmody, commenced shortly after the action at the front began. As Groth and his men approached the front, Officers Carmody, Broderick and Ciszewski approached the rear door of the apartment.³⁶⁶ Carmody went to the top of the stairs of the porch to the apartment at the rear and went up the stairs; the other officers remained at the bottom of the stairs.³⁶⁷ Carmody waited at the top of the stairs and listened for voices from inside. He first heard a male voice at the front yelling, "Who's there?" and another male voice yell, "It's the police." Immediately he heard a loud bang, which he believed to be a shotgun blast,³⁶⁸ and he kicked the kitchen door in with his right foot.³⁶⁹ Just as he started to enter, he saw three flashes and saw a hand holding a gun around a corner of the doorway leading between the dining room and the kitchen.³⁷⁰ The gun seemed to be pointed directly at him.³⁷¹ Carmody did not remember hearing any other shots between the time he heard the first shot before he kicked open the door and the three shots which he heard and saw after he kicked open the door.³⁷² Carmody insisted that he saw the hand holding the gun that fired the three shots, pointed at him, and although he searched the apartment and scoured the west wall of the kitchen, he could find no trace of bullet holes.³⁷³ He assumed that the bullets all went out the back door.³⁷⁴

³⁶² Tr. XXV, p. 52.

³⁶³ Tr. XXV, pp. 194-196.

³⁶⁴ Tr. XXV, pp. 85-86.

³⁶⁵ Tr. XXIV, p. 51; Tr. XXV, pp. 86, 262.

³⁶⁶ Tr. XXVI, p. 162.

³⁶⁷ Tr. XXVI, p. 162; Tr. XXVII, p. 24.

³⁶⁸ Tr. XXVII, pp. 24, 44.

³⁶⁹ Tr. XXVI, p. 162.

³⁷⁰ *Ibid.*

³⁷¹ Tr. XXVI, p. 177.

³⁷² Tr. XXVI, pp. 170-171.

³⁷³ Tr. XXVI, p. 177.

³⁷⁴ *Ibid.*

Ciszewski, who was outside, heard three pop-like shots.³⁷⁵ Carmody quickly backed out of the door and went over to the window where he smashed the window with his gun, cutting his hand in the process. He had intended to enter through the window, but didn't go in because he noticed that the burners on the gas stove right in front of the window were lit.³⁷⁶ He then called to the men at the foot of the stairs that they were being fired at.³⁷⁷ He then went back to the kitchen door, dove into the kitchen door on his stomach and saw a flash from the same general area as the first shots had come and fired a shot at it with his service revolver.³⁷⁸ As Carmody went in the kitchen door, Ciszewski and Broderick followed him in.³⁷⁹ A light was on in the kitchen, and Ciszewski saw there was a flush door lying on its side across the entrance between the dining room and kitchen.³⁸⁰ Carmody heard someone yell, "Hold your fire, our men are coming in the back."³⁸¹ Upon entry, the front of the apartment looked dark to Carmody.³⁸² Ciszewski saw some dim illumination, but the dining room was dark.³⁸³

At the time of this first cease fire, the only rounds that had been fired by police at the front of the apartment were two blind shots by Groth through the front doorway and three shots by Davis killing Clark and wounding Harris.³⁸⁴ There are two bullet holes in the front door of the apartment, one from the inside going towards the outside and the other from the outside coming in. Groth initially thought that the shot fired as Davis went in the door had been fired by Brenda Harris, but concluded after examining the door panel that Clark fired the first shot from behind the door.³⁸⁵ The upper hole in the door was made from the outside, with the door at approximately a 45° angle, and may be consistent with one of the shots fired by Groth.³⁸⁶

Groth, Davis, Jones and Gorman all insist that a shot was fired by Brenda Harris at them as they came in the door.³⁸⁷ None of them could explain what had become of this shot, and it is not possible to draw a line from the southeast corner of the living room, where Harris was said by Davis and Groth to be on the bed holding the gun, out

³⁷⁵ Tr. XXVII, p. 44.

³⁷⁶ Tr. XXVI, p. 174.

³⁷⁷ Tr. XXVI, p. 163.

³⁷⁸ *Ibid.*

³⁷⁹ Tr. XXVII, p. 24.

³⁸⁰ Tr. XXVI, pp. 172-173; Tr. XXVII, p. 25.

³⁸¹ Tr. XXVI, p. 178.

³⁸² Tr. XXVI, p. 175.

³⁸³ Tr. XXVII, p. 47.

³⁸⁴ Tr. XXV, p. 87.

³⁸⁵ Tr. XXIV, p. 54.

³⁸⁶ Tr. XXIV, p. 59.

³⁸⁷ Tr. XXIV, p. 54; Tr. XXV, pp. 73, 192; Tr. XXVI, pp. 44-46.

through the living room door, the entrance hall door and the outside door. There are no holes in the west wall of the apartment.³⁸⁸ Groth believes the shot must have passed out the front door, somehow missing all of the officers in the hallway and foyer.³⁸⁹

At the time Groth called for the first cease fire, there was some firing going on in the back of the apartment.³⁹⁰ But all firing stopped when Groth called for the first cease fire.³⁹¹ As he called for the first cease fire, Jones, Gorman and Davis were in the living room of the apartment; Jones handed Groth three long guns saying, "Get them out of here."³⁹² As Groth turned around to take the guns out of the apartment, the cease fire was broken by a shot that rang out from somewhere in the apartment.³⁹³ Shortly after Jones handed Groth the three shotguns, a shot rang out from the north bedroom. Jones heard a gunshot and saw a flash as he was watching down the hallway. He did not hear any impact and had no idea where the shot went; he initially thought it would have gone in the direction of the front door or into the bathroom door across the hall from the north bedroom door.³⁹⁴

According to Davis, after the first cease fire was called, he heard a male voice call out "off the pig" or "shoot it out" or words to that effect.³⁹⁵ He thereupon heard a gunshot which he identified as coming from the north bedroom and saw a gun flash reflected on the west wall of the hallway opposite the north bedroom.³⁹⁶ Groth did not see the flash of the shot which broke the first cease fire because he had walked out with the shotguns.³⁹⁷ He couldn't tell where the gunfire had come from other than that it was inside the apartment.³⁹⁸ At about this time, Davis turned on a light in the living room.³⁹⁹ The shot that broke the first cease fire sounded muffled and unusual to Gorman, who was standing next to the south wall of the living room.⁴⁰⁰

³⁸⁸ Tr. XXIV, pp. 55-57; Tr. XXV, pp. 137-138. The only possible hole in the west wall is near the living room door and it could not be associated with any firing on this occasion. See discussion, *supra*, Section C, Topic M, "The Scientific Analysis of the Physical Evidence Found in the Apartment."

³⁸⁹ Tr. XXIV, pp. 56-58.

³⁹⁰ Tr. XXV, p. 86.

³⁹¹ Tr. XXIV, p. 63.

³⁹² Tr. XXIV, p. 64.

³⁹³ *Ibid.*

³⁹⁴ Tr. XXVI, pp. 51-53; Tr. XXIV, pp. 67-68.

³⁹⁵ Tr. XXV, pp. 52, 87.

³⁹⁶ Tr. XXV, p. 88.

³⁹⁷ Tr. XXIV, p. 66.

³⁹⁸ *Ibid.*

³⁹⁹ Tr. XXV, p. 201.

⁴⁰⁰ Tr. XXV, p. 250.

After this shot broke the first cease fire, Gorman concluded they could not safely go down the hall, and the shooting in back alarmed him over the safety of the men in the rear. He fired one machine gun shot through the south living room wall, asking Jones who was standing by the west wall to look to see whether it went through.⁴⁰¹ Jones said that it went through; Gorman and Davis told the occupants to come out.⁴⁰² At that time, someone shouted from the rear, "Shoot it out" and a shot appeared to be fired in the rear bedroom.⁴⁰³

Meanwhile at the rear, in the kitchen, Carmody prepared to leap over the flush door blocking the entrance to the dining room. Before he could get up, a shot went off behind him and he thought someone was shooting at him from behind; Ciszewski told him that Broderick had fired a shot over his head to keep the occupants of the apartment down.⁴⁰⁴ This shot was fired high into the east wall of the dining room into the north bedroom.⁴⁰⁵ Carmody got up on his knee, still in the kitchen, and fired two more shots towards the area where he had seen the gun.⁴⁰⁶ Ciszewski said he would kick down the flush door between the kitchen and dining room but was unable to do so.⁴⁰⁷ As Carmody prepared to jump over the barricade, someone in front of the apartment, presumably Gorman, called, "Wait a minute and I will cover you."⁴⁰⁸ However, Carmody leaped over it and ran towards the north wall of the dining room firing his fourth shot toward the south bedroom as he ran.⁴⁰⁹ Broderick followed him over.⁴¹⁰

Gorman then stitched the wall with his machine gun.⁴¹¹ Although Sgt. Groth stood behind Gorman while he fired through the wall, no order to fire through the wall was given.⁴¹²

As Carmody leaped from the kitchen and stopped against the north wall of the dining room, he heard a second cease-fire; Ciszewski shone his flashlight into the south bedroom and observed an individual, later identified as Harold Bell, come out with hands raised.⁴¹³ With his flashlight, Ciszewski also saw a shotgun against the south wall of the south bedroom, and someone on the bed on his face, lying with

⁴⁰¹ Tr. XXV, p. 89; Tr. XXIV, pp. 71-72.

⁴⁰² Tr. XXV, p. 91.

⁴⁰³ *Ibid.*

⁴⁰⁴ Tr. XXVI, pp. 163-164; Tr. XXVII, p. 120.

⁴⁰⁵ Tr. XXVII, p. 123.

⁴⁰⁶ Tr. XXVI, pp. 164, 179-180.

⁴⁰⁷ Tr. XXVII, pp. 27-28.

⁴⁰⁸ Tr. XXVI, p. 164.

⁴⁰⁹ Tr. XXVI, pp. 164-165.

⁴¹⁰ Tr. XXVII, p. 28.

⁴¹¹ Tr. XXV, p. 263.

⁴¹² Tr. XXIV, pp. 127, 219-220.

⁴¹³ Tr. XXVI, p. 181; Tr. XXVII, p. 28; Tr. XXV, pp. 94-95, 99, 264; Tr. XXIV, p. 77.

his head to the west; he also saw a shotgun and an automatic pistol on the floor.⁴¹⁴

According to Davis, the second cease-fire was broken by flashes he observed from the rear of the apartment.⁴¹⁵ Sgt. Groth believed these flashes came from the south bedroom.⁴¹⁶ Jones thought a shot came from the north bedroom.⁴¹⁷ After the second cease-fire was broken, Gorman again fired into the south wall of the living room and was joined by Davis firing his carbine.⁴¹⁸ Groth gave Davis no order to fire at any time.⁴¹⁹ Davis believed that he might have fired with Gorman each time Gorman fired.⁴²⁰ The bullets were fired on a depressed angle from northwest to southeast.⁴²¹ About this time, Jones heard another shot which he attributed to the north bedroom.⁴²² Gorman also thought the shot breaking the second cease-fire came from the north bedroom.⁴²³ Jones fired two shots into the north bedroom at that time.⁴²⁴

After Bell surrendered, the cease fire was again broken by the occupants. Carmody saw a flash from the north bedroom,⁴²⁵ and insisted that this flash came from inside the north bedroom.⁴²⁶ Broderick also saw two shotgun blasts light up the door of the north bedroom; he fired two shotgun blasts into the south bedroom.⁴²⁷ One of these shots was toward the bedroom window, and one toward the back of the room. He fired to keep figures he had seen in the room away from the doorway.⁴²⁸ Ciszewski also says he saw a flash from the south bedroom and he fired two shotgun blasts into that room.⁴²⁹ From the dining room, Carmody called a warning to Gorman in the living room to stay back because "I am going to fire into this (north bedroom) door in case somebody is behind there." Carmody then fired his fifth shot toward the north bedroom door.⁴³⁰ This was followed by gunfire (possibly from

⁴¹⁴ Tr. XXVII, pp. 29-30.

⁴¹⁵ Tr. XXV, p. 98.

⁴¹⁶ Tr. XXIV, p. 78.

⁴¹⁷ Tr. XXVI, p. 71.

⁴¹⁸ Tr. XXV, p. 98.

⁴¹⁹ Tr. XXV, pp. 102-103.

⁴²⁰ Tr. XXV, p. 101; Tr. XXIV, p. 219.

⁴²¹ Tr. XXV, p. 102.

⁴²² Officer Jones' testimony is ambiguous as to which cease fire his shots followed. He stated (Tr. XXVI, p. 71) that he fired after the second cease fire, but he relates this to a shot from the north bedroom.

⁴²³ Tr. XXV, p. 263.

⁴²⁴ Tr. XXVI, p. 67; Tr. XXV, p. 103.

⁴²⁵ Tr. XXVI, p. 182.

⁴²⁶ Tr. XXVI, p. 183.

⁴²⁷ Tr. XXVII, pp. 123-124, 143-144.

⁴²⁸ Tr. XXVII, p. 144.

⁴²⁹ Tr. XXVII, p. 32.

⁴³⁰ Tr. XXVI, p. 186.

Gorman and Davis) from the front (north) of the apartment and a third cease fire was called. During this cease fire, which was the longest, Louis Truelock and Deborah Johnson surrendered from the south bedroom.⁴³¹

During the third cease fire, after the surrender of Truelock and Johnson, Carmody went in the south bedroom and pulled out Hampton.⁴³² Carmody had never seen any shots from the south bedroom but assumed that whoever had fired the handgun shots at him had ducked into that room.⁴³³ After the removal of Hampton, Ciszewski went into the south bedroom to pick up arms.⁴³⁴ Immediately thereafter, Ciszewski called out that he was shot.⁴³⁵ This broke the third cease fire. As Ciszewski cried out he was shot, Broderick saw two flashes from the front of the apartment.⁴³⁶ He returned that fire by firing his weapon into the front bedroom from the dining room.⁴³⁷ Broderick then rushed from the dining room to the bathroom, broke the bathroom light and looked into the north bedroom. He saw a male and female figure between two beds, but could see no weapons.⁴³⁸ He fired three to five shots into the room above the figures.⁴³⁹ As Broderick finished firing, he saw Gorman, who had reloaded his machine gun with a fresh magazine of 30 rounds, run past the door of the north bedroom firing his machine gun.⁴⁴⁰ He did not see Gorman go into the north bedroom,⁴⁴¹ and could not tell where or at whom Gorman fired.⁴⁴² Broderick then observed Carmody rush toward the north bedroom.⁴⁴³

Gorman said that by this time it was obvious that the persons in the north bedroom would not leave voluntarily. As Broderick finished firing, he therefore placed his weapon on automatic fire and in a low crouch charged into the north bedroom. As he went in, some clothes in the closet to the right of the door caught his eye; he fired a short burst into the closet, turning toward the center of the room in one motion. By the flickering light of his machine gun, Gorman saw one man standing up very fast between the beds with a grey shotgun in his hands. He held the machine gun on this man until he grabbed

⁴³¹ Tr. XXVI, pp. 186-187; Tr. XXVII, pp. 32, 124, 146.

⁴³² Tr. XXVI, pp. 186-187, 197; Tr. XXVII, p. 147.

⁴³³ Tr. XXVI, p. 187.

⁴³⁴ Tr. XXVI, p. 198; Tr. XXVII, p. 125.

⁴³⁵ Tr. XXV, pp. 212, 263.

⁴³⁶ Tr. XXVII, p. 149.

⁴³⁷ Tr. XXVII, pp. 125, 149, 157.

⁴³⁸ Tr. XXVII, pp. 127, 158.

⁴³⁹ Tr. XXVII, pp. 158-159.

⁴⁴⁰ Tr. XXVII, pp. 159-160; Tr. XXV, pp. 216-217.

⁴⁴¹ Tr. XXVII, p. 159.

⁴⁴² *Ibid.*

⁴⁴³ Tr. XXVII, p. 160.

his groin and fell.⁴⁴⁴ As he fell, Gorman saw another figure moving between the beds and thought he saw a handgun being raised toward him, Gorman fired the machine gun at this figure (later identified as Verlina Brewer) until the 30 round clip was empty and the individual shouted, "I give, I give. I am hit."⁴⁴⁵ For the first time, Gorman saw a third person (later identified as Ronald Satchel) between the beds on the floor.⁴⁴⁶ Carmody had seen Gorman fire into the closet in the north bedroom but did not recall seeing Gorman fire the machine gun into the north bedroom.⁴⁴⁷ Carmody said he rushed into the north bedroom, jumped on the bed and saw Anderson, Brewer and Satchel standing in the center of the room from north to south.⁴⁴⁸ He could see that they were unarmed, by flashlight, and had their hands up.⁴⁴⁹ There was no firing going on in that bedroom when Carmody went in.⁴⁵⁰ He escorted all three of the prisoners out of the room at that time.⁴⁵¹ Anderson was wounded in the thigh and the groin; a grey shotgun later recovered from this room had a .45 caliber slug imbedded in it; this gun was a stolen police weapon. Verlina Brewer was wounded twice, once in the buttocks and once in the knee. A .45 caliber slug was removed from her knee; there is no record or testimony of the recovery of any weapon other than the stolen police shotgun from this room; Ronald Satchel was wounded five times.⁴⁵²

At approximately 4:52 a.m., car number 1101, who was on the scene, reported that the premises were under control.⁴⁵³ Thus, the entire incident, according to the time signals impressed on the police radio tapes, took, at most, twelve minutes (4:40-4:52).⁴⁵⁴

2. Testimony of witnesses in neighborhood

Departmental attorneys conducted a canvass of the 2300 block of West Monroe Street in an effort to locate possible witnesses to the December 4, 1969, incident at 2337 West Monroe Street. Many residents were contacted; few admitted to having even limited information concerning the incident. Many were visibly frightened and reluctant to discuss the incident. Only one 83 year old, neighborhood wit-

⁴⁴⁴ Tr. XXV, pp. 219-221.

⁴⁴⁵ Tr. XXV, p. 223.

⁴⁴⁶ Tr. XXV, p. 224.

⁴⁴⁷ Tr. XXVI, p. 187.

⁴⁴⁸ Tr. XXVI, p. 188.

⁴⁴⁹ Tr. XXVI, pp. 188-189.

⁴⁵⁰ Tr. XXVI, pp. 189-190.

⁴⁵¹ Tr. XXVI, p. 190.

⁴⁵² Exhibits 5, 66-69, 96-98.

⁴⁵³ Exhibit 87.

⁴⁵⁴ Exhibit 6, Item 123; Exhibit 87.

ness was located who claimed to have actually seen some part of the shooting; she testified before the Grand Jury that she saw an officer firing what appeared to be a machine gun down through the passageway between 2335 and 2337 West Monroe. She further testified that she heard no other shots and saw no officers enter the apartment.⁴⁵⁵

Other residents heard gunshots; a summary of their testimony follows:

One man was awakened by steady gunshots which continued for about ten minutes. He looked out his window and observed two police cross the street and kick in the door of the adjacent apartment.⁴⁵⁶

A next door neighbor, who also heard shooting, observed several police officers come to his apartment and kick the door open, looking for a way to the roof.⁴⁵⁷

Another neighbor who lives across the street from 2337 West Monroe was awakened by steady shooting. She looked out her window while the shooting was going on and observed two uniformed police officers coming off the porch of the apartment at 2336 West Monroe. Police were shining lights on apartments and ordering people to get out of their windows.⁴⁵⁸

The next door neighbor on the east was awakened by the shooting. She got on the floor until the shooting stopped. She heard no voices from the Panther apartment. Later that morning she found a bullet hole in her kitchen door, and police officers later came and recovered a spent bullet from her kitchen and inspected her premises.⁴⁵⁹

Another neighbor on the east was awake and preparing to go to work when he heard a series of shots which appeared to be coming from the rear of the apartment. After about four or five seconds, he heard another series of shots from the rear of the apartment. All of the shots sounded as if they were being fired from an automatic weapon. About thirty seconds later, he heard shooting in the front part of the apartment. The only voices he heard from inside the apartment were those of women screaming.⁴⁶⁰

Two witnesses occupied the upstairs apartment directly over the apartment at 2337 West Monroe at the time of the incident. On the morning of December 4, 1969, one was awakened by a knock on the downstairs front door. A voice from inside the downstairs apartment asked, "Who is it?" A voice on the outside of the apartment replied, "Police, open up." Again, the voice on the inside of the apartment

⁴⁵⁵ Tr. XII, pp. 213-220.

⁴⁵⁶ Exhibit 86.

⁴⁵⁷ Exhibit 86 G.

⁴⁵⁸ Exhibit 86 D.

⁴⁵⁹ Exhibit 86 I.

⁴⁶⁰ Tr. XII, pp. 199-212.

asked, "Who," and the voice on the outside again replied, "Police, open up." Immediately thereafter, she heard what sounded like a door or a wall being pushed in or bumped very hard. Then, a single shot rang out followed by a lot of shots. She heard someone call out, "Hold your fire. Come out of there with your hands over your head." Immediately after the cease fire, the shooting started again. Sometime later, she heard another cease fire called and a voice said, "John are you all right?" No more shooting was heard after the second cease fire. She estimates that the shooting lasted for about ten to twelve minutes. Except for breaking glass, she heard no movement or voices emanating from the back of the apartment during the shooting. All of the shooting appeared to be coming from directly under her living room, above the front room of the Panther apartment. She could not distinguish the type of gunfire except that on several occasions she heard what sounded like machine gun fire.⁴⁶¹

The other upstairs resident did not awake until the shooting had commenced and, therefore, heard no noises at the front door. The only voices she heard from downstairs first said, "Don't shoot each other," and, following a pause in the shooting of about two minutes, then said, "John are you all right?" She heard no cease fires; she heard shooting from the back of the apartment as well as from the front. Both upstairs residents were in the same room during the shooting.⁴⁶²

3. *Testimony of apartment occupants*

In late February and early March, each of the seven surviving occupants of the raid at 2337 West Monroe were subpoenaed to testify before this Grand Jury. At that time each of them declined to testify because state indictments were pending against them and the answer to questions regarding the incident could tend to incriminate them. As phrased by counsel for one of the survivors, called to explain his client's position:

My professional opinion is that since there is a criminal case against her pending in the Cook County Circuit Court, that any answer she gives which might be a link in a chain the questions and answers cannot be separated. And at this point in your questioning that the use of the self incrimination clause of the Fifth Amendment is in good faith and entirely consistent with the principles of constitutional law as I understand them.

I should add that it is no attempt to obstruct this body, but is in light of other proceedings that are pending.⁴⁶³

⁴⁶¹ Tr. X, pp. 85-108.

⁴⁶² Tr. X, pp. 151-174.

⁴⁶³ Tr. XV, p. 262.

However, on March 8, 1970, six of these seven individuals voluntarily testified at the so-called Peoples Inquest. Each related publicly an account of what transpired, with no claims of Fifth Amendment immunity.⁴⁶⁴

On May 8, 1970, acting on information initially forwarded by this Grand Jury, the Cook County State's Attorney dismissed all outstanding indictments against the survivors because they were based in part on erroneous ballistics evidence introduced before the local grand jury. The same day each of the surviving occupants were directed to return to this Grand Jury on May 12, 1970.

On May 12, prior to being asked to testify, the four survivors who responded to this Grand Jury's summons, together with their counsel, were given substantially the same informal briefing on the results of ballistics analysis as that given the police officers prior to their testimony.⁴⁶⁵ Moreover, each was advised that the FBI analysis requested by this Grand Jury had disclosed the Chicago Police Department Crime Laboratory's ballistics examiner's error and had occasioned the dismissal of charges against them. However, each was cautioned that subsequent indictments could be returned by a state grand jury and, to that extent, there was still some potential jeopardy of criminal charges. Each was advised that contrary to press reports, this Grand Jury had reached no conclusions and that the Grand Jury could not really finish its task of investigating the possible violation of the occupants' civil rights without the cooperation of the survivors.

Without exception each declined to furnish this cooperation. On the day of their appearance, a news article captioned "Survivors Can't Testify: Rush," reported that the leader of the Illinois Black Panther Party said the seven survivors would not testify "unless a majority of the panel is black." Rush was quoted as saying "We'll be there on time the panel is black." Rush was quoted as saying "We'll be there on time tomorrow . . . to keep them (the '7') from being found dead in the middle of the night."⁴⁶⁶ As Rush had indicated, each witness refused to testify because the Grand Jury was not made up of his "peer group." All but one denied that his refusal was based in any way on the Fifth Amendment privilege against self incrimination, notwithstanding the existence of a valid claim under that Amendment because of potential future indictments.⁴⁶⁷

The Grand Jury feels that it has exercised every possible means to obtain the missing facts which only these persons can supply. The

⁴⁶⁴ *Supra*, No. 5, Topic L, "The People's Inquest."

⁴⁶⁵ Those who had not attended the briefing were given the basic facts of the briefing while on the witness stand.

⁴⁶⁶ *Daily Defender* 5/12/70.

⁴⁶⁷ One of the survivors combined the claim that the jury was not selected with his peer group with a claim of potential incrimination under the Fifth Amendment.

depth of this Grand Jury's concern is best expressed by the following colloquy between witness Deborah Johnson and Mr. Branch, one of the Jury's attorneys:

Q. So I say to you again that this is the only Grand Jury you have got, and this is the only body in existence at this time who has power to do anything constructively concerning the bullets and the holes that you see in that Grand Jury Exhibit 17.

Now you are one of the persons who was in that apartment at that time along with others, and we do happen to know a little bit about you. We know that you are concerned with black people. You are concerned about your neighborhood. You are concerned about the injustices that have occurred. There are, I think, a lot of people who are concerned, and I have been concerned much longer than you have.

But one of the important things, Miss Johnson, in any civilization is that you must recognize the opportunity when it knocks because sometimes it only knocks only one time. There is a time and place when you stop talking and you start acting, and I submit to you that this is the time and this is the place and this is the body that you should start acting before because this Grand Jury has reached an impasse where it can't go forward, cannot do anything unless it has some testimony from some of the survivors as to what happened. We have the police story, we have the physical evidence, but that is not enough. As I told you before, what this Grand Jury is considering is whether or not your civil rights were violated or the civil rights of the other persons in that apartment on December 4th were violated, and it is impracticable and almost impossible and it is really contrary to all procedures to go forward in any constructive way without having the persons who are aggrieved, the persons who were hurt, the persons who were subject to danger come in and tell what happened. Do you follow me?

You have a small child, Miss Johnson, and I am convinced and I think the Grand Jury is convinced that what happened on December 4th, 1969, should not happen again. But their power to act, Miss Johnson, is tied into your power to cooperate with this Grand Jury, and I would hate to read two weeks from now or two months from now or two years from now that there has been another shoot-out in Chicago or any other city where two men are killed and four people are wounded.

If I do read that, Miss Johnson, and if you read it, then I think we can both say one of the reasons this has happened is because you sat on this stand with the power to do something about it and rhetoric was more important to you than justice.

A. I don't think—

Q. So I ask you again, Miss Johnson, will you tell this Grand Jury what happened at 2337 West Monroe Street on December 4th, 1969.

A. I have nothing to say to this Grand Jury.

MR. BRANCH: I have no further questions.⁴⁰⁸

The Grand Jury believes that the action of these witnesses is without legal justification and is nothing more than political posturing to publicize the Panthers' position on juries. Unquestionably, the Grand Jury could obtain a court order requiring the survivors to testify. The enforcement of such order could thus accord the Panther leaders the martyrdom they seek for the seven survivors. However, the interests of law enforcement would not be served by such action. The purpose of this investigation is to gather facts and make legal evaluations of them; the time for playing games is over. The Grand Jury will not permit itself to be used as an instrument of publicity and recruiting by the Panthers. Moreover, in the final analysis, there is no way to compel the survivors' testimony since they continue to have a valid Fifth Amendment claim to assert at any time.

The public should know, however, that the Panthers who were so outraged at the time of the incident, publishing daily claims of mistreatment and murder and demanding one investigation after another, have now withheld their cooperation from the only investigative body with authority to do anything.

In addition, the Grand Jury recommends that the conduct of Mr. Rush, in formulating and announcing the Panther policy against cooperation, should be carefully evaluated by a subsequent Grand Jury to determine if it violates federal laws prohibiting obstruction of justice. Particular attention should be given the means used by Mr. Rush to secure compliance with his directions.

⁴⁰⁸ Tr. XXXIII, pp. 78-80.

II. DISCUSSION: THE GRAND JURY'S ASSESSMENT OF THE FACTS

A. *Probable Cause*

Sgt. Groth testified he had received information from a previously reliable informant relating to the presence in the first floor apartment of 2337 West Monroe of illegal weapons and ammunition. The Grand Jury accepts this as adequate probable cause to seek and serve a search warrant for that location. This judgment is based solely on the information obtained by Sgt. Groth. The information forwarded by the FBI to Assistant State's Attorney Jalovec, while generally confirming the existence of an arms cache, would not, standing alone, have justified a search warrant. Mr. Jalovec's confusion of the term riot shotguns with illegal sawed-off shotguns and the inclusion of his mistaken allegations in the complaint for the search warrant, while confusing, did not effect the essential validity of the complaint or the search warrant.

Reliable information that there are illegal weapons in a premises, in the form of sawed-off shotguns and stolen police weapons, imposes a duty on local law enforcement officials to take the necessary steps to seize such weapons and to arrest and bring to trial those who possess them in violation of state laws. The possession of unregistered weapons is also a violation of state and local law and, if involved, should form the basis for other prosecutions.

In point of fact the State's Attorney's Police did find and seize from the apartment one illegal sawed-off shotgun and one stolen police weapon, and found some seventeen other weapons which had not been registered. However, there was a failure to record or otherwise identify in any systematic way the individuals who possessed such weapons or even the location in the apartment from where each was seized. That failure coupled with improper and inaccurate inventory records and other chain of evidence problems and complicated by a plethora of obviously prejudicial pre-trial publicity regarding the weapons, has seriously jeopardized and probably frustrated the potential prosecutions and the orderly processes of justice.

The Grand Jury feels strongly that there is no excuse for an organization to stockpile illegal weapons and that anyone, regardless of their color, creed or political persuasion, who is duly charged with a violation of the law in respect to possessing illegal weapons of any kind, should be arrested, tried fairly and, if found guilty, punished in accordance with the law. The Grand Jury believes that the law enforcement procedures in this case may be considered to have precluded either a proper charge or a fair trial, and cannot be justified.

B. The Shootings: Testimony vs. Physical Facts and Evidence

The major concern of this Grand Jury has been the irreconcilable disparity between the detailed accounts given by the officers and the physical facts and evidence examined and reported by the FBI. The Grand Jury had available the detailed accounts given by the officers both in the media and before the Coroner's Inquest. As noted previously, before the officers were permitted to testify before this Grand Jury, they were advised of the fact that a thorough examination of bullet holes, ballistics exhibits and trajectories could confirm but one shot having been fired by all of the seized Panther weapons.

This disclosure was made for several reasons. First, the Grand Jury was concerned because the reports from the police Crime Laboratory had identified three shotgun shells with Panther weapons. This could have had the effect of confirming a mistaken impression of what the officers had seen. Second, since the officers had not previously had the benefit of the results of a competent and professional search of the scene, a review of the physical facts such as the absence of bullet holes and shells and the virtual impossibility of all the Panther bullets flying out the doors and windows, could conceivably have been the occasion for a better recollection of what went on under tense and trying circumstances. Finally, the Grand Jury wanted to negate any possibility that the officers' accounts were not their own and, by disclosing the physical facts, to give them final notice that this body wanted a full, truthful, and detailed account of their present recollection.

After disclosing these facts to the officers, they were allowed some time in which to reflect and reconsider their individual accounts in light of the physical evidence. However, in almost all relevant matters, the testimony of the officers before this Grand Jury was the same as that given at the Coroner's Inquest.

To understand the depth of the problem, it is useful to analyze the testimony of the officers with respect to the absolute minimum number of shots they say were fired at them.

Six officers testified to the deer slug shotgun blast through the living room door. A deer slug and its empty shell were recovered and the shell was positively identified as being fired in a shotgun which was found behind the living room door and which had on it bloodstains consistent in type with that of the deceased Mark Clark who was found lying behind the living room door.

Four officers say that they saw Brenda Harris fire one shot from a shotgun while she was half-sitting, half-lying on the eastern end of the bed in the southeast corner of the living room. One officer believed she fired twice—the first time simultaneously with the shot through the door. It is physically impossible for this shot or shots to have been fired from the described location and not hit a wall, a door or a piece of furniture. Had she been at the extreme west end of this bed, it is possible for a single projectile to have passed through all three open doors in the front and exit the apartment. No one says the gun was in this location and the possibility of such a shot not only passing through all the doors but also missing all four of the officers in or near these doors is also remote. Moreover, there are no empty shells identified as having been fired in the pump shotgun attributed to Brenda Harris. The expended shell in this type gun would either have remained in the chamber or if the pump had been operated, ejected in the living room. The State's Attorney's Police had custody of the gun from the time Gorman took it from the girl, and the mobile crime laboratory team searched the living room for just such shells, recovering in the process the two at the foot of the bed which were later misidentified.

Eight officers testified that they heard or saw shots originating in the north bedroom.⁴⁶⁹ Three of them identify some or all of these shots as shotgun fire. The number of shots range from one (Davis) to four (Broderick and Ciszewski).⁴⁷⁰ It is impossible to tell from the testimony whether the officers are describing the same shots; accordingly, no maximum figure can be set, but the testimonial minimum is from one to four shots. Available recovery records and testimony reflect that only one shotgun (the stolen police weapon) was recovered from this room. None of the expended shells recovered in that room or elsewhere were fired from that gun and there are no pellet marks outside the only door to that room that are consistent with such shots.

Four officers testified there was firing from the south bedroom. One of them, Jones, identifies 2 pistol shots from this room. The others identified the shots by sound only; there is no way to determine if each heard the same shots so only a minimum of 2 pistol shots and 1 to 3 unknown type shots can be established. An automatic pistol and several long guns were recovered from this room, but none of the expended shells found in this room or elsewhere were fired from these weapons. There are no marks in the dining room, kitchen or hall that are consistent with shots fired out the only door to this room.

⁴⁶⁹ Officer Ciszewski testified that he saw two shots fired from the barrel of a gun protruding from the north bedroom. (Tr. XXVII, pp. 26-27, 48.)

⁴⁷⁰ Officer Kelly estimated 5-10 shots from this room.

One officer, Carmody, says he saw 3 shots fired at him by a hand-held weapon from the doorway between the kitchen and the dining room and he later saw another flash from this same location. Ciszewski testified he heard 3 shots about the time of the 3 Carmody describes. There was a hand gun recovered in the adjacent south bedroom, but none of the recovered shells was fired in this weapon. There are no marks on the back door, the porch or adjacent buildings that could be associated with the fire described by Carmody.

Accordingly, the following shows the absolute minimum range of shots the officers testified were fired at them:

Shotgun fire:	Number	Location
1	-----	thru living room door
1	-----	living room couch
1-4 ⁴⁷¹	-----	north bedroom
Pistol fire:		
2	-----	south bedroom
4	-----	dining room-kitchen door
Unidentified type:		
1-3	-----	south bedroom

Thus, at an *absolute minimum*, the participating officers say that they were fired at from 3 to 6 times with shotguns, 6 times with pistols and from 1 to 3 times by unidentified weapons—a total range of 10 to 15 shots, *at a minimum*. Only one bullet hole, one shell and one projectile—all associated with the blast through the living room door—can be identified ballistically as having been fired by the occupants.

By contrast, the officers also testified to the shots which they fired in the apartment. This testimony, together with the physical evidence recovered, indicates that they fired from 82 to 99 total shots. Of these, the Grand Jury has received in evidence 55 projectiles ⁴⁷² and has accounted for 82 expended shells positively identified as having been fired in police weapons. Moreover, there are numerous bullet holes, marks and fragments in the walls and furniture that are consistent with this testimony.

The great variance between the physical evidence and the testimony of the officers raises the question as to whether the officers are falsifying their accounts. However, as noted above, the physical facts do

⁴⁷¹ One officer says all 4 shots from the north bedroom were shotgun fire. The others identify some but not all the shots as shotgun fire. In computing a minimum range all 4 are listed under the shotgun heading.

⁴⁷² Numerous additional projectile fragments were recovered with insufficient markings to be identifiable. However, most of them are logically identifiable with the Davis Carbine, i.e. the markings present indicate they were fired in a carbine and were not fired in the seized carbine which was the only other one on the premises.

corroborate many details of their testimony.⁴⁷³ Each of the seven officers who were principally involved were asked to comment on how there could be corroboration of their fire and the almost total absence of physical evidence of Panther shooting. Although none of them had a total explanation, several had ideas and suggestions worthy of consideration.

Several officers suggested that during the period when the Panthers had control of the apartment, some of the evidence could have been removed either intentionally or by some of the thousands of spectators who toured the scene. One of the officers provided the name of a news reporter who had allegedly witnessed one of the Panther guides remove one .45 cal. shell casing from the dining room area. The reporter was located and confirmed this story,⁴⁷⁴ but the individual who allegedly removed this shell has not yet been located.

While it is conceivable that some items could have been removed from the premises in the manner suggested, the theory falls far short of explaining the total discrepancy. First, the theory does not explain the absence of bullet holes or marks from the alleged firing. Secondly, the possibility of intentional concealment by Panther agents seems implausible. Pursuant to Court order attorney Andrew turned over some 200 items of potential evidence including numerous bullets, lead fragments and shell casings, on his oath that this was everything removed from the apartment under his direction. Moreover, since neither he nor his ballistics examiner had access to any of the Panther weapons, it would have been impossible for them to determine which items to turn over and which to conceal. Finally, the statistical probability that sight-seers removed almost all of the evidence of Panther shots and almost none of the evidence of police shots is astronomical.

Another theory suggested was that changes had been made to significant items and structures after the police left the apartment. The Grand Jury was concerned enough over this possibility to request the FBI to run spectographic analyses of the bathroom door to see if it had been replaced. The paint samples from the door, its hinges, the door jamb and the adjacent walls matched. The door had not been replaced.

⁴⁷³ For example, the shotgun recovered in the north bedroom has a .45 cal. machine gun slug in it consistent with Gorman's account; the high covering shot fired by Broderick is plainly traceable on the dining room wall; the .38 slug recovered in the southeast corner of the living room is consistent in angle and trajectory with Sgt. Groth's description; Clark's wounds are consistent with Davis' account.

⁴⁷⁴ This reporter was unable to identify correctly a .45 cal. shell (Tr. XXVIII, pp. 12-13). He also said he had not contacted anyone regarding this incident for "a couple of months" because "as a newsman I did not want to involve myself in the matter in the event that the authorities were able to develop the information through other means." (Tr. XXVIII, pp. 9, 14)

Similarly, the FBI did all that could be done to determine if bullets passed out either the front or the rear of the apartment. Although one can never negative this possibility entirely, the investigation covered all of the surfaces of the doors, the porches, and the surrounding buildings and no evidence of bullet impacts were found. Also, a marked brick was removed from a building across Monroe Street and tested without positive results.

Another suggestion was that some of the bullets and expended shells could have landed in the storage boxes, clothing, debris and rubbish in the apartment, from which it was never recovered. Again, while this could be a possible explanation for a few items, it seems rather unlikely that all of the missing evidence was lost. Moreover, FBI agents did sift through all of the debris in the apartment, finding in the process pieces of lead as small as 1.25 grains, and none of the identifiable items recovered were attributable to Panther weapons.

The most plausible explanation, but one rejected by the officers, is that in the darkness and excitement they mistakenly attributed to the occupants the fire of other officers. A careful analysis of the testimony shows the way such mistakes could be made and is even more credible if one considers the natural fear, confusion and tension that each must have felt.⁴⁷⁵

For example, Officer Carmody says he waited listening at the back door until he heard a loud shotgun blast at the front of the apartment. He then kicked the kitchen door in, but almost immediately saw three flashes of gunfire which he says came from a hand gun in the doorway between the kitchen and dining room. Significantly, he says he heard no shots between the shotgun blast in the front and the three shots fired at him. It should be noted that in the living room at the very time Carmody saw the three flashes, Officer Davis had dived in and fired his carbine three times—once at Brenda Harris and twice at Mark Clark. The distance between the center of the living room where Davis was firing and Carmody's location at the back door is approximately 39.5 feet; and standing at the back door, one can look through the hallway into the living room on an unobstructed line of sight.⁴⁷⁶ The possibility that Carmody, after kicking in the door, immediately saw the vivid flashes of Davis' fire from the darkened living room, heard the reports and concluded that he was being fired upon, seems very real to the Grand Jury.

Similarly, the officers entering the front say that after the initial shooting by Davis and Groth, a cease fire was called only to be broken by a shotgun blast fired from the north bedroom. About the same time at the rear, Broderick was firing a high shot from behind the refriger-

erator into the east wall of the hallway which impacted only a few feet south of the doorway to the north bedroom. Since Carmody was able to hear the first shotgun fire at the back of the apartment, through the closed back door, it seems logical that the blast of Broderick's shotgun would be both audible and visible to the officers in the living room. Moreover, because of the direction of fire, the flash and sound could very well have appeared to come from the north bedroom.

There are other bases for speculation that the shots attributed to the Panthers by the officers also could have been mistaken or confused with shots fired by other officers, but absent some direct evidence that this is what happened, no conclusions are justified on the basis of speculation alone.

The one group of witnesses that, perhaps, could have shed some light on what happened are the occupants of the apartment. However, without exception they have declined to testify.

Thus, while there is a serious lack of corroboration of the officers' accounts, no one has appeared before the Grand Jury with a specific allegation of wrongdoing by them. Unquestionably, the raid was not professionally planned or properly executed and the result of the raid was two deaths, four injuries and seven improper criminal charges. The grave issues of professional law enforcement raised by these facts are discussed elsewhere. The question here is whether the facts establish probable cause to believe that the officers involved intentionally committed acts which deprived the occupants of federally protected rights, contrary to law.⁴⁷⁷ The Grand Jury is unable to reach that conclusion. The physical evidence and the discrepancies in the officers' accounts are insufficient to establish probable cause to charge the officers with a willful violation of the occupants' civil rights.

The Grand Jury also is not persuaded from the evidence available to it that the officers are intentionally falsifying their stories. Accordingly, the Grand Jury is unable to determine that there is probable cause to believe there has been a violation of the testimonial oaths taken by these witnesses. The Grand Jury knows of no additional line of investigation which might develop the missing facts.

⁴⁷⁷ 18 U.S.C. 241, 242, 245.

⁴⁷⁵ Police officers Gilhooly and Rappaport were allegedly killed by Panthers about three weeks before this incident. See Discussion under Section IIA, *supra*.

⁴⁷⁶ See Apartment Sketch, Appendix, *infra*.

C. The Facts and the State Indictments

When the Grand Jury received evidence from the FBI that the police Crime Laboratory had incorrectly identified two shells as having been fired from the weapon seized from Brenda Harris and that there was thus evidence of only one shot having been fired by Panther weapons, it promptly notified the Court of a potential miscarriage of justice. The seven surviving occupants were each charged with attempted murder and other crimes, and the Grand Jury had evidence that part of the evidence upon which those indictments had been based was false.

With the concurrence of the Court and pursuant to its order, agents of the Grand Jury were authorized to call these facts to the attention of the prosecuting authorities and request that the prosecutions be re-evaluated in the interests of justice. The other results of the FBI investigation were also presented to the State's Attorney to indicate the significance of the police ballistics mistake.

At the request of the State's Attorney, the police laboratory firearms examiner re-examined the questioned evidence and testified that he had been in error.

Before acting on the Grand Jury's request to consider dismissal of the prosecutions, the State's Attorney requested that the officers be allowed to testify. He reported that he had reinterviewed each of the seven principally involved and that each requested an opportunity to convince the Grand Jury of the truthfulness and accuracy of his account. Several had offered to take polygraph tests. After their testimony, the State's Attorney agreed that if the Grand Jury persisted in its request he would re-examine the prosecutive facts and reach a decision. He also requested that the transcripts of the officers' testimony and other evidence the Grand Jury felt was pertinent to a prosecutive decision be disclosed to him for this purpose.

Pursuant to an order of the Court permitting the limited disclosure of evidence received by the Grand Jury, this procedure was agreed to and followed.

On May 5, 1970, the State's Attorney appeared before the Grand Jury, at his request, and responded to its inquiry. He stated that he had reviewed the evidence submitted and had concluded that all of the indictments of the survivors should be dismissed in the interest of justice.

III. LAW ENFORCEMENT PROBLEMS

The extensive investigation by this Grand Jury of the various factual controversies has presented a rare opportunity to evaluate the effectiveness of various law enforcement agencies and, indeed, the whole legal system, with the sort of insights available only in an actual case. It has amounted to a kind of cross section view of the administration of justice in a highly publicized and controversial setting where the local institutions were under abnormal stress and strain. Such an analysis of our law enforcement machinery is especially appropriate at a time when the basic fairness and fundamental competence of the American Legal System is constantly questioned and, by some, totally repudiated. The analysis which follows is disappointing because it demonstrates serious shortcomings in the performance of some public agencies and a mutual suspicion among the individuals involved that seems almost paranoic.

The Grand Jury's conclusions and recommendations are made with the sincere conviction that through the public exposure and discussion of these problems constructive change may result. The stakes are high. Either our society and institutions will prove to be responsive and responsible, with built-in systems for growth and learning and change, or the critics who claim that the law and the legal system are irrelevant and decadent will have another citation for their argument. It bears repeating that the following comments are not the abstract findings of a social scientist but are the considered evaluations of twenty-three ordinary citizens judging the performance of their institutions with real facts of life and death, with real people and with real controversies.

A. The Concept and Performance of the State's Attorney's Police

The Grand Jury appreciates the need of a large prosecutive office, such as the Cook County State's Attorney, to have adequate trained investigative and prosecutive assistance. Certainly, with the number of cases tried, the sensitivity of some of them, the need to gather evidence and guarantee the safety of witnesses, a prosecutive agency must have professional investigative and enforcement personnel available. Moreover, this is frequently the practice in other metropolitan prosecuting agencies.

However, the Grand Jury is concerned that the use of such personnel, not for the above purposes, but to perform such basic police-type functions as the execution of search warrants on a matter that is not yet pending in the prosecutor's office, mixes the prosecutive and policing functions to the potential detriment of both.

Although it sought from many knowledgeable witnesses some justification that raids of the kind involved here should be conducted by a select group of officers responsible only to the prosecutor and his assistant rather than by regular police authorities, the Grand Jury is unable to conclude that there is a reasonable explanation.

Accordingly, the Grand Jury concludes that the State's Attorney's Office should discontinue or minimize the use of police assigned to it for normal police department functions such as the service of search warrants not connected with the trial or prosecution of pending cases. The Chicago Police Department has the available skill, manpower and program potential⁴⁷⁸ to handle such assignments and, in our view, should be responsible for them. The Grand Jury believes the facts show that the State's Attorney's Police are neither trained nor equipped for such major undertakings.

The problems inherent in using the State's Attorney's Police in this way are readily apparent. It was never clear who was responsible for the crime scene, either its search or its security. Police department officials say the State's Attorney's Officers had the responsibility because it was their raid, and the police department only provided assistance

⁴⁷⁸ The Grand Jury notes with approval that the Chicago Police Department has undertaken a limited form of sensitivity training to familiarize all police officers, through the rank of Captain, with urban problems (Tr. XXIX, pp. 52-53). This program supplements the newly expanded thirty-one week program commencing in January 1969, and required of all recruits, which includes instruction in the behavioral sciences (Tr. XXIX, pp. 49-50).

as requested. The State's Attorney said that when the Police Crime Laboratory men arrived, the whole scene was their responsibility. As a result, no gun was tagged or fingerprinted, no record made of where it was found, no proper inventory was made and no record shows what ammunition was in each, if any. The scene was abandoned by 7:30 a.m. through an unexplainable series of conflicting orders. The failure to collect and systematically preserve available evidence has contributed to the Grand Jury's inability to establish what took place with legal definitiveness.

Moreover, the whole concept of going on a raid in a high crime density area to obtain weapons from known militants—led by a convicted felon believed to be dangerous—with only fourteen men, in plainclothes, in the dead of night, with no sound equipment, no lighting equipment, no tear gas and no plan for dealing with potential resistance, seems ill-conceived. The Grand Jury believes that a professional police department would not have adopted such an approach but would have used a system similar to the one used by the FBI in June 1969, evacuating the entire Panther Headquarters and effecting eight arrests without firing a single shot.

The State's Attorney has advised the Grand Jury that the nine-man unit headed by Sgt. Groth is no longer independent but is now assigned to the regular contingent of State's Attorney's Police under Chief Ward. This is an appropriate step in the Grand Jury's view. Limiting the State's Attorney's Police to prosecutive investigation and assistance is also warranted.

B. Pre-trial Publicity

While the Grand Jury fully accepts and appreciates the public's legitimate right to know through the media what is happening in its community, that right cannot be allowed to prevent a fair trial. In the view of the Grand Jury, improper and grossly exaggerated stories were reported almost daily in the Chicago media. It seemed to become a kind of publicity contest with everyone involved releasing more and more to newspapers and other media who published anything and everything. Thus, the smoke had hardly cleared before Panther spokesmen claimed murder, and their claims were published. Similarly, the injured policemen made immediate statements to the press at the hospital which were either grossly inaccurate or grossly distorted. The ensuing escalations have been described in the first part of this report and culminated in a television spectacular being acted out by the policemen who did the shooting. While we can understand the State's Attorney's position—that he felt obligated to respond to widely published charges made by Panther spokesmen—the jurors cannot accept this as justifying the extraordinary television show or the exclusive (and in part erroneous) *Chicago Tribune* account. The Grand Jury does not understand how the right to a fair trial can ever be guaranteed when the major prosecution witnesses all give a detailed testimonial re-enactment.

The media must accept responsibility for some of the problems of pre-trial publicity. Especially where the public is intensely interested in a case, the journalists must recognize their duty of accurate and balanced reporting. In a competitive press, sensational headlines reporting unproved and unchecked allegations undoubtedly attract readership, but, if in error, they also publicize misinformation, sow distrust among citizens and may even prejudice the interests of justice. Similarly, speculative articles about the results of the secret investigation by this Grand Jury and about the impact of other developments on this Jury's deliberations, can only serve to invite controversy and shake the faith of the public in the Grand Jury. Grand Jury deliberations are not public, and until they are made so by proper order of the Court, the public has no right to know, nor the media to speculate on, the steps a Grand Jury is considering.

Nor can the Grand Jury justify the equally prejudicial approach of attorneys for the apartment occupants. Press conferences were held

by defense counsel and expert witnesses, which, at least in one instance, resulted in the widespread dissemination of totally erroneous information on drugs and cause of death, and resulted in flamboyant claims with no foundation at all that Hampton was intentionally murdered after being drugged.

In the opinion of the Grand Jury, the proper balance, between the public's right to know and the interest of the public in a fair trial, is set forth in the American Bar Association's approved draft of standards for pre-trial publicity set forth in the margin.⁴⁷⁰ It is recommended that in the future these rules be studied and followed by members of the bar, the press and the prosecutors.

⁴⁷⁰ See Appendix A, *infra*.

C. The Coroner System

The office of the Coroner, in Illinois as in other states, is a combination of archaic and statutory functions. The office is presently required by law. This investigation establishes reasonable grounds to question whether the continuation of that office is desirable.

The inquest function is archaic in origin and of doubtful relevancy. The findings of a Coroner's jury as to cause of death are immaterial; they neither prevent nor require prosecutions. Certainly, the "blue ribbon" Coroner's jury which sat in this case was made up of dedicated and competent individuals, all of whom were dedicated to finding the truth. Their determination of justifiable homicide, however, was inevitable in view of the refusal of the occupants to testify. The Grand Jury believes it is questionable whether the continuation of the inquest system is in the best interests of justice. The findings were based on incomplete evidence and, in fact, were not binding on anyone.

Nor, did the medical work of the Coroner's Office seem to be of high caliber. The reversal of the entrance and exit hole and the misdescription of one of Hampton's wounds could, in some cases, have caused serious repercussions. The understaffing, inadequate procedures, use of an unlicensed pathologist, loss of a crucial dicta-belt and the reliance on dieners (autopsy assistants) to do work such as fluoroscopy, indicate serious problems.

Some states and metropolitan areas have replaced the coroner with an appointive medical examiner system. This eliminates the inquest function entirely and requires the examiner, an experienced forensic pathologist, to determine the cause of death from medical and scientific evidence. Such examiners are appointed, rather than elected, and this system has received wide acceptance as a more professional approach to forensic pathology.

In 1965, a resolution was introduced to submit a constitutional amendment to the voters of Illinois to abolish the coroner system and replace it with an examiner system. The bill was killed in committee after opposition formed around the Illinois Coroner's Association.

The Grand Jury is advised that the present Constitutional Convention is considering several proposals for the elimination or modification of the coroner's system in Illinois. The Grand Jury believes that such changes should be carefully studied and considered. To that end, the Jury will make available any of the relevant information in its files to the proper officials of the Constitutional Convention.

D. The Chicago Police Crime Laboratory

The operation of this agency in this case indicated a serious lack of professionalism and objectivity. The whole purpose of a crime laboratory is to gather and analyze physical evidence. A scientific approach, in the Grand Jury's view, is necessarily objective and unbiased. It is inconceivable how the activities of the Mobile Crime Lab team can be justified in light of this standard. The team recovered but seven items and left behind at least eighty projectiles and casings and at least as many other items of physical evidence. The testimony of the team leader that the team's only purpose was to gather evidence supporting the officers' stories, makes it clear that there simply was no thorough professional examination made of the premises. Regardless of the directions allegedly received from the State's Attorney's Police on the scene, the Chicago Police Crime Lab should have insisted on such an examination if for no other reason than to guarantee the integrity of its own report.

Similarly, the work done by the lab after it received the limited amount of evidence submitted, displays questionable professionalism. While any firearms examiner can be excused a mistake—even one with serious consequences—there was more involved here. Not only did the State's Attorney's Police fail to turn in their weapons for testing, the Crime Laboratory did not even request them to do so until after a mistaken report was prepared and indictments based on it and after this Grand Jury investigation was initiated. Had the Crime Lab refused to conduct an analysis of any recovered bullets and casings without having all the weapons present in the apartment, there is every possibility that the mistake would never have occurred and been submitted as fact to the Cook County Grand Jury.

In short, the Crime Lab was responsible, in part at least, for a totally inadequate search and for a grossly insufficient analysis. The testimony of the firearms examiner that he could not have refused to sign what he believed was an inadequate and preliminary report on pain of potential discharge is highly alarming. If true, it could undermine public confidence in all scientific analysis performed by this agency.

The Grand Jury recommends that an immediate evaluation of the operating rules and procedures of the Crime Lab should be undertaken by the Chicago Police Department. Recommendations should be developed which would require the absolute independence of that agency and which would insure that the capable staff there will be free to pursue their work with absolute scientific detachment free from pressure or interference by anyone.

E. Internal Inspections Division

The performance of this branch of the Chicago Police Department—the branch dedicated to impartial and objective investigations of police conduct—was so seriously deficient that it suggests purposeful malfeasance. The regular channels of the IID were bypassed. Instead of a complete investigation of any of the factual controversies raging in the press, the investigation consisted only of gathering all police reports, soliciting cooperation from counsel for persons accused of crimes (knowing that no defense counsel would permit pre-trial statements by an accused) and asking the officers involved a few simple conclusory questions in which they denied wrongdoing. No officer was given the opportunity to explain what happened in detail and all the subordinate officers were asked only to ratify their sergeant's account—which itself was based not only on prepared questions, but suggested answers composed by a police department lawyer and shown to the sergeant in advance.

Nor did the IID investigate any potential violations of police department regulations by the officers. For example, the General Order 67-14⁴⁸⁰ relating to the use of deadly force in making an arrest, specifically prohibits the following practices:

1. Firing into crowds
2. Firing over the heads of crowds except on specific order of a member of the Department above the rank of Captain
3. Firing at a fleeing car except one in which a person who has attempted or committed a forcible felony is riding
4. Firing warning shots in the case of individuals where the use of deadly force is not permitted (*even when deadly force is permitted, warning shots will not be fired when they are likely to injure persons other than those against whom deadly force is authorized*)
5. *Firing into buildings or through doors when the person fired at is not clearly visible.* (Emphasis supplied.)

Even the media accounts available to the IID clearly frame an issue as to whether the police department's own regulations were violated.

Moreover, the publication of the results of this "investigation," in the view of the Grand Jury, was misleading to the general public by inferring that a legitimate investigation was held. The Grand

Jury found a more detailed account of the raid in the *Chicago Tribune* than it did in the IID files.

The Grand Jury recommends that immediate steps be taken to insulate the IID from any interference or pressure; that firm written procedures be established for the handling of investigations where officers are involved in shootings; that a directive prohibit the advance reading of questions and suggested answers to persons whose conduct is in question; and, that an alternative system of dealing with investigations of police conduct be explored. An organization charged with the responsibility of evaluating the conduct of police officers must have public credibility to succeed. The facts in this case show that the IID's performance does not deserve such confidence.

⁴⁸⁰ Exhibit 72.

F. Militant Organizations and Law Enforcement

Organizations such as the Black Panther Party present law enforcement problems of the most serious dimensions. It must be reported that the Panther tactics and policies help create much of the very tension and conflict they have complained of in this and other cases. While the Grand Jury has focused on the civil rights guaranteed by the Constitution to all persons, any analysis of law enforcement problems in this case must make it clear that there is no intention to defend or excuse any violations of state and local law. Certainly, gathering large numbers of unregistered firearms and ammunition is not an act of peace. Public advocacy of violence toward policemen is not an appeal for justice.⁴⁸¹ The constant rhetoric of revolution in the tinder of the ghetto will never solve the social and economic problems of black citizens.

Much has been done and is being done toward eliminating these human problems, but the continuing process of change and correction will take time, perhaps a number of years. In the meantime, the difference between chaos and order is the responsibility of local law enforcement agencies. In a difficult situation, the job of law enforcement agencies is to preserve order, administer justice and guarantee the fundamental rights of all citizens. In these tasks, they deserve public understanding and support. The activities of violence oriented groups such as the Panthers seriously complicate the achievement of legitimate goals of such agencies.

The FBI, for example, advised the Grand Jury :

Hampton's favorite quotation from Mao's red book was that revolution comes about through the barrel of a gun, and that was his main philosophy that he expounded in all of his speeches; that the only way to insure that the revolution that they wanted to occur would be through the barrel of a gun.

In June of last year, the Chicago [Panther] officers told every Panther member that if you are arrested, there had

better be at least one shot fired at the arresting officer or we will not bond you out, and they have ordered all members to acquire firearms.⁴⁸²

Thus, in judging the facts of this case, the Grand Jury urges that the reader should keep the proper perspective. If officers of the law are on a legitimate and proper mission to search for illegal weapons that could endanger countless persons, they should not be met with gun fire. In this case, the State's Attorney's Police did, in fact, seize and remove from public circulation nineteen weapons and a large quantity of ammunition. The fact that the raid was poorly planned and executed and the evidence was mishandled, does not mean that there should have been no raid.

The full and fair enforcement of the law and the obedience to the law by all persons involved in this case would have eliminated any need for this Grand Jury's inquiry.

⁴⁸² Tr. XII, p. 77.

⁴⁸¹ For example, Vol. 1, No. 6 of the Ministry of Information Bulletin of the Black Panther Party eulogized "Jake" Winters, a party member, for killing two Chicago Police Department officers and wounding several others. Winters was killed in this action. This article refers to the Chicago Police Department officers as "pigs" and encouraged other Black Panther Party members to follow his example (Exhibit 129).

CONCLUSION

This Grand Jury has sincerely endeavored to exhaust every reasonable means of inquiry to ascertain the facts of this case. The most concise conclusion is that, in this case, it is impossible to determine if there is probable cause to believe an individual's civil rights have been violated without the testimony and cooperation of that person. This cooperation has been denied to this Grand Jury. Given the political nature of the Panthers, the Grand Jury is forced to conclude that they are more interested in the issue of police persecution than they are in obtaining justice. It is a sad fact of our society that such groups can transform such issues into donations, sympathy and membership, *without ever submitting to impartial fact finding by anyone*. Perhaps the short answer is that revolutionary groups simply do not want the legal system to work.

On the other hand, the performance of agencies of law enforcement, in this case at least, gives some reasonable basis for public doubt of their efficiency or even of their credibility.

The resulting competition for the allegiance of the public serves to increase the polarization in the community.

Under these circumstances, the Grand Jury believes the best service it can render is to publish a full and factual report on the evidence it has heard so that the entire public will be made aware of the situation.

JANUARY 1970 GRAND JURY

By /s/ RONALD A. ALBION

Foreman

MAY 15, 1970.

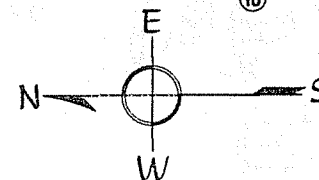
Acknowledgment

Finally, the Grand Jury wishes to acknowledge the invaluable investigative contributions of the Federal Bureau of Investigation. Without the cooperation, professionalism and proficiency of this agency, the Grand Jury could not have completed its assignment.

(126)

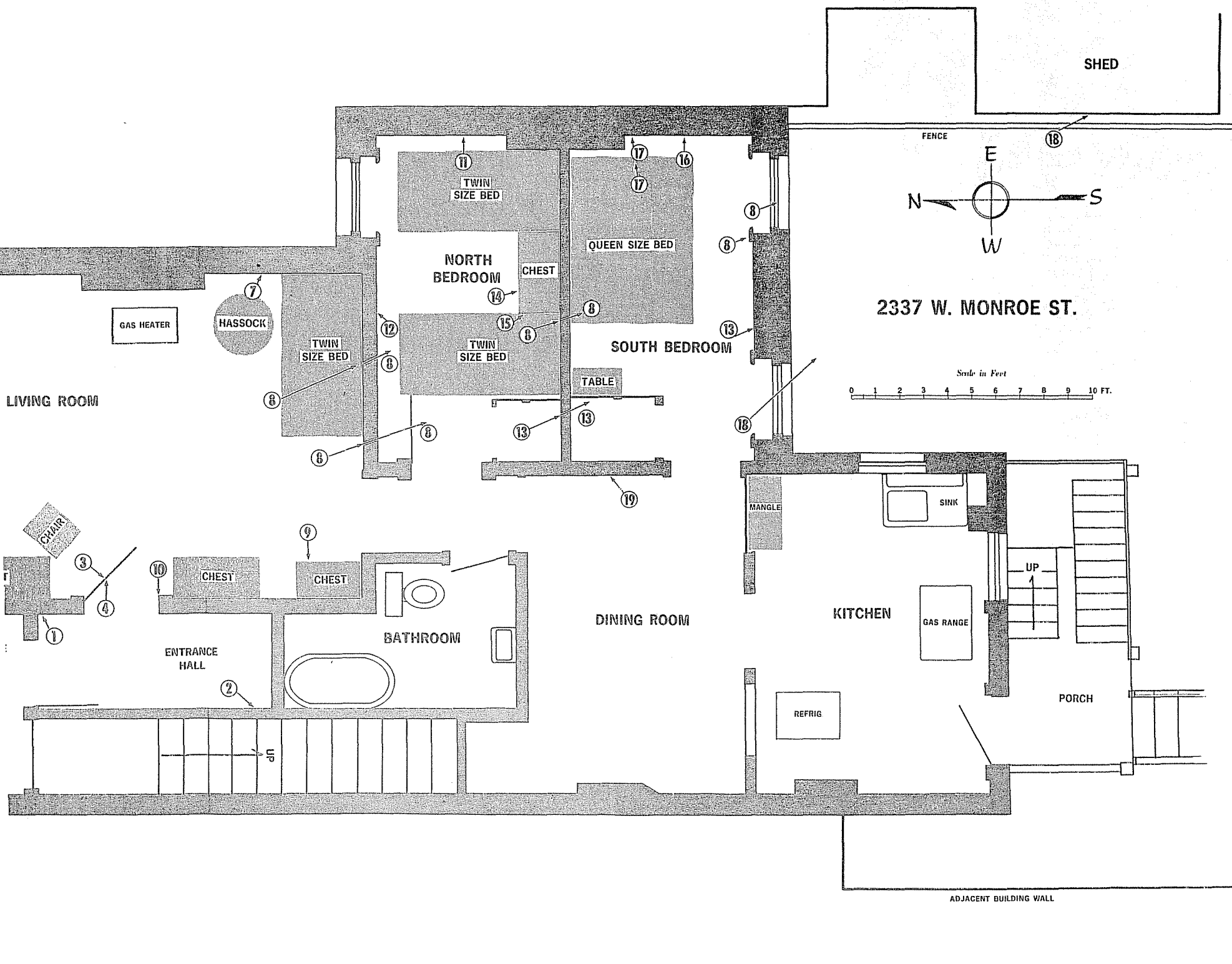
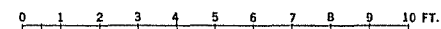
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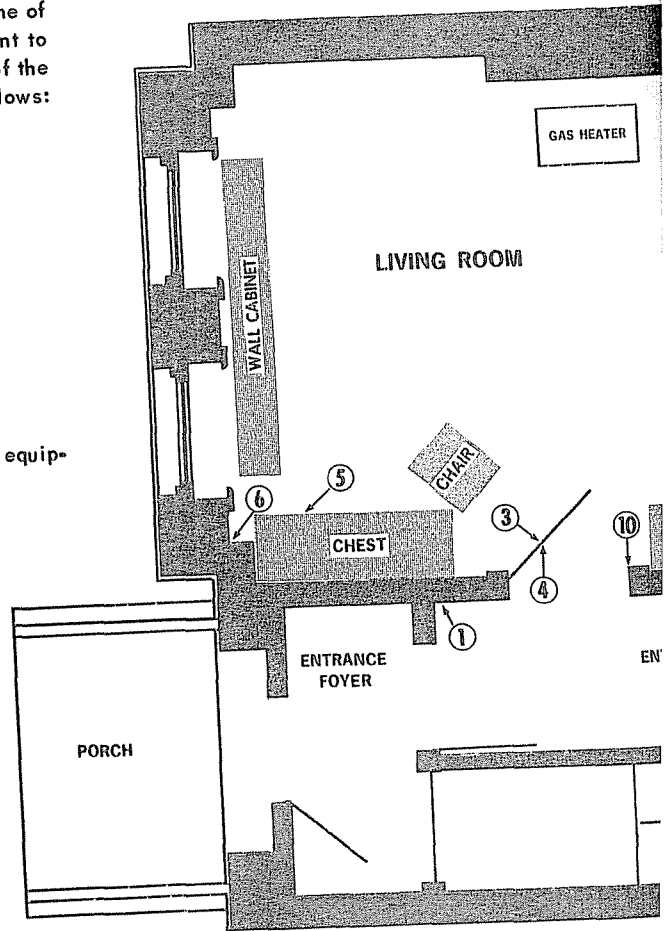
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1970 GRAND JURY
RONALD A. ALBION
Foreman

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This scale drawing does not convey the congested conditions found in the apartment at the time of the FBI examination. Omitted are furnishings, clothing and miscellaneous paraphernalia not relevant to the action described. However, much additional furniture was found in the apartment at the time of the FBI examination of the premises. A room by room listing of omitted furniture and paraphernalia follows:

- Entrance Hall - 1 Rollaway bed and large quantities of clothing.
- Living Room - 2 Chairs
Record rack
TV set console
Coffee table
Lamp
Double mattress
Typewriter case
Telephone
- Bathroom - Entire room piled high with clothing and miscellaneous small furnishings and equip-
ment.
- North Bedroom - Large quantities of clothing hanging in closet and on nails.
Folding chair
Several cans of paint, one penetrated by bullet.
Telephone
- South Bedroom - Chair
Lamp
Large quantities of clothing hanging in closet.
- Dining Room - 1 Double bed (complete with head and footboard)
3 Chairs
Flush door (lying on one side across opening to kitchen)
Two twin bed headboards
Quantities of clothing
- Kitchen - 2 Chairs
Kitchen table
Table model TV
Quantities of groceries, dishes and kitchen utensils



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Rod Taubel, Deputy U.S. Marshal, Milwaukee, Wisconsin
Vernon Whitlock, Deputy U.S. Marshal, St. Louis, Missouri
Walter Broughton, Deputy U.S. Marshal, DePage, Iowa

(127)

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(127)

(2) The existence or contents of any confession, admission, or statement given by the accused, or the refusal or failure of the accused to make any statement;

(3) The performance of any examinations or tests or the accused's refusal or failure to submit to an examination or test;

(4) The identity, testimony, or credibility of prospective witnesses, except that the lawyer may announce the identity of the victim if the announcement is not otherwise prohibited by law;

(5) The possibility of a plea of guilty to the offense charged or a lesser offense;

(6) Any opinion as to the accused's guilt or innocence or as to the merits of the case or the evidence in the case.

The foregoing shall not be construed to preclude the lawyer during this period, in the proper discharge of his official or professional obligations, from announcing the fact and circumstances of arrest (including time and place of arrest, resistance, pursuit, and use of weapons), the identity of the investigating and arresting officer or agency, and the length of the investigation; from making an announcement, at the time of seizure of any physical evidence other than a confession, admission or statement, which is limited to a description of the evidence seized; from disclosing the nature, substance, or text of the charge, including a brief description of the offense charged; from quoting or referring without comment to public records of the court in the case; from announcing the scheduling or result of any stage in the judicial process; from requesting assistance in obtaining evidence; or from announcing without further comment that the accused denies the charges made against him.

During the trial of any criminal matter, including the period of selection of the jury, no lawyer associated with the prosecution or defense shall give or authorize any extrajudicial statement or interview, relating to the trial or the parties or issues in the trial, for dissemination by any means of public communication, except that the lawyer may quote from or refer without comment to public records of the court in the case.

After the completion of a trial or disposition without trial of any criminal matter, and prior to the imposition of sentence, a lawyer associated with the prosecution or defense shall refrain from making or authorizing any extrajudicial statement for dissemination by any means of public communication if there is a reasonable likelihood that such dissemination will affect the imposition of sentence.

Nothing in this Canon is intended to preclude the formulation or application of more restrictive rules relating to the release of informa-

tion about juvenile or other offenders, to preclude the holding of hearings or the lawful issuance of reports by legislative, administrative, or investigative bodies, or to preclude any lawyer from replying to charges of misconduct that are publicly made against him. (Note: The standards also suggest the same restraint by judges and court personnel.)

PART II. MASSACHUSETTS GUIDE FOR THE BAR AND NEWS MEDIA—1663

Preamble

1. Guide for Press

1. To promote closer understanding between the bar and the press, especially in their efforts to reconcile the constitutional guarantee of freedom of the press and the right to a fair, impartial trial, the following mutual and voluntary statement of principles is recommended to all members of both professions.

2. Both professions, recognizing that freedom of the press is one of the fundamental liberties guaranteed by the First Amendment to the United States Constitution, agree that this fundamental freedom must be zealously preserved and responsibly exercised subject only to those restrictions designed to safeguard equally fundamental rights of the individual.

3. It is likewise agreed that both the press and the bar are obliged to preserve the principle of the presumption of innocence for those accused of wrongdoing pending a finding of guilty.

4. The press and the bar concur on the importance of the natural right of the members of an organized society to acquire and impart information about their common interests.

5. It is further agreed, however, that the inherent right of society's members to impart and acquire information should be exercised with discretion at those times when public disclosures would jeopardize the ends of justice, public security, and other rights of individuals.

6. The press and the bar recognize that there may arise circumstances in which disclosures of names of individuals involved in matters coming to the attention of the general public would result in personal danger, harm to the reputation of a person or persons or notoriety to an innocent third party.

7. Consistent with the principles of this preamble, it is the responsibility of the bar, no less than that of the press to support the free flow of information.

For the Press

Newspapers in publishing accounts of crime should keep in mind that the accused may be tried in a court of law.

To preserve the individual's rights to a fair trial, news stories of crime should contain only a factual statement of the arrest and attending circumstances.

The following should be avoided :

1. Publication of interviews with subpoenaed witnesses after an indictment is returned.
2. Publication of the criminal record or discreditable acts of the accused after an indictment is returned or during the trial unless made part of the evidence in the court record. The defendant is being tried on the charge for which he is accused and not on his record. (Publication of a criminal record could be grounds for a libel suit.)
3. Publication of confessions after an indictment is returned unless made a part of the evidence in the court record.
4. Publication of testimony stricken by the court, unless reported as having been stricken.
5. Editorial comment preceding or during trial, tending to influence judge or jury.
6. Publication of names of juveniles involved in juvenile proceedings unless the names are released by the judge.
7. The publication of any "leaks," statements or conclusions as to the innocence or guilt, implied or expressed, by the police or prosecuting authorities or defense counsel.